the Government which has hitherto been pursued, and by which they claim to be the victorious conquerors of the Indian people.

True and False Law

It is not for me to remind the people so far as this town is concerned, as to what the state of the supposed law was under which you and I lived from day to day. My legal friends might probably be able to satisfy their legal conscience and believe that what was promulgated as the proper line of conduct for our countrymen and country women during the last three years was law in the sense that it was an expression of the will of the sovereign power to regulate the conduct of individuals with the power of the lathi behind it. But that is not the sense in which the law is understood so far as any free human being is concerned; undoubtedly everyone of us owes allegiance and obedience to law where that subserves the progress of the people and the maintenance of the liberties of those for whom and by whom it is made. To obey that law is a great social duty. But what they call law, a law which stands for the suppression of personal freedom, personal duty, for the suppression of the rights of association, for the suppression of one's conviction, that, I venture to say to this audience and to the highest power on earth and above, is not the law which either man or God can call upon you to obey. True law must be in consonance with justice between man and man.

True law is consonant with the freedom of man in every aspect in which he loves to maintain that freedom. That cannot be called law, by whatever other name you may call it, which is not framed by those who are the true representatives of the people of the land. This is the first issue on which we wish to call upon the country to express its opinion, namely, whether what passed under

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And yet we seem to have learnt out of the education of the West not the truth but fallacies alone ! They thought that what was good for themselves was not good for us; that patriotism was a virtue in their land and a crime in ours, that the fight for freedom had no value except freedom itself, whereas here the only prudent advice under which many of our friends acted during the course of the latter part of the struggle was that suffering from the effects of this fight, from the effects of civil resistance and from the evil effects of that great struggle. I have met many of those who under good advice or bad having studied history, denounced the Indian National Congress and those who joined in that struggle in season and out of season. They have lived to realise that struggle is the only means, the only method, by which if you are going to attain any measure of freedom, you will attain it.

How To Reconcile

One of them, and perhaps the geatest constitutionalist among them, whom I met a short time ago, reviewing the history of the struggle at this stage was good enough and generous enough to say that whatever be the form of force or pressure that the constituted authority used on a nation, reconciliation could be brought about only by conferring freedom on the country itself by a constitutional measure. But I heard just the contrary during the course of the struggle from those protagonists of the opposite school, people who had won prizes in the study of the causes of the French Revolution, of the causes of the American Independence, of the rise of the Dutch Republic, of the causes of the attainment of freedom of England from the despots of their own country since the the days of the Magna Carta, and of the causes of freedom of other lands, those were the persons who won prizes in understanding the value of freedom ! They told us not only so; but during the course of the struggle, they advised us that those very

you simply because you belong to this community or that. If that is the way that you invite people to elect you to our popular assemblies, then all I can say is that you are not serving the National cause.

It is not a free country in which we live. Therefore the servants of the Crown are not the servants of the people, the servants of the crown are not the friends of the people, and the servants of the Crown are necessarily afraid of the friends of the people, lest their loyalty may be doubted or affected by an undesirable relationship with those who dare stand for their own country. It is that situation in which we find ourselves to-day, and it is for that reason, more than any other, that I congratulate myself on the honour that you have conferred upon me.

Reconquering India

Sometimes ago the Viceroy of India went and congratulated himself upon the freedom of the City of Edinburgh that was conferred upon him, and he then told the citizens of Edinburgh and through them his countrymen in Great Britain that he had reconquered India for them and that he deserved that honour because he hoped and trusted that England would be able to rule over you for many years to come. That was the position which made him proud of the freedom of the City of Edinburgh that was conferred upon him!

Ours is exactly the reverse of the picture. I am proud of the honour that you have conferred upon me in the hope that we will be able to confer upon ourselves the larger freedom, the freedom of our own country. You have my felicitation and congratulations for having exercised the limited powers that you have, but because of that reverse position, while Lord Willingdon told his countrymen at the time of getting the freedom of the City of Edinburgh that he had done his patriotic duty in maintaining the Empire for his land, I can only beg of you to make it your duty,

personal aspect whatever, but standing as we do to-day somewhat in the background of the Hindu Faith, it is necessary for us to remember what it is that we are looking for in the future progress and development of our country, for indeed there are two ways of looking at this question. Merely abusing Mr. Ramsay MacDonald will not do. For that matter, those who abuse him to-day are the very people who brought about the situation which has brought into being the Communal Award.

Beginning at the very beginning, let me narrate to you the events that led to the Communal Award. Let us take the case of Mr. Ramsay MacDonald himself. In that position I am quite certain that your skill, your wisdom, your intelligence and your foresight would all have been brought into active participation for the purpose of finding out how best to retain the land and the race you hold in subjection for the benefit of your own countrymen. From his point of view, therefore, the problem, was quite different to the one from our view-point, and I very much wish and desire that our countrymen instead of attempting to abuse the authors of the Award would rather address themselves and their countrymen for their own benefit as to why it is and with what motives it is that they have produced a document of this kind which is apparently for the purpose of solving a problem, but which is really for the purpose of complicating it. It really takes for granted that every Englishman who assists in the Government of this country is doing a patriotic duty in that it is entirely up to him to maintain his Empire and the subjection of yourselves and me. It is, therefore, perfectly futile—it produces no effect whatever on the English mind—to deal with this question in the manner in which it is being dealt with in some quarters.

Congress History

It is not for me to remind you that though the

warm and nonetheless sincere. So far as you, Sir, are concerned, though I have not had the advantage of personal friendship, I certainly have known you through those records which have been preserved in the recorded judgments from time to time delivered by you which have evinced a clear mind, almost a stern character and a straightforward method of looking at questions which only even-handed justice inspires, and there is one thing I wish to assure you in offering you my congratulations, namely, that I am one of those—and I hope every other Member of this House shares that feeling—who feel that there is nothing greater in life than to fight without rancour and to lose without bitterness and I wish to assure you that every support that personally I myself can give and also those who will otherwise support me in this House will be forthcoming freely—and I do not like every time to talk of this side of the House for at all events we have had two occasions on which there is no sense except one of unanimity in the feeling of welcome to you. I hope and trust that you will occupy this Chair for the full period of its time with energy and vigour and that we shall always look to you every time not merely for justice, but, if I may add a little to it, a certain amount of consideration also for novices like myself so far as legislatures and Legislative Assemblies are concerned. It is not merely with a sense of humility, but it is with a genuine sense of welcome, Sir, that I look to you and I hope and trust that every section will from now onwards look upon you as entirely above parties and entirely above sides, in fact a little above the House itself: and I hope and trust that you will adorn the Chair with that dignity, that independence and that clarity of perception of which we already have experience and which you are justly reputed to be credited with.

INDO-BRITISH TRADE AGREEMENT

30th January 1935

Mr. President, I consider it a privilege to take part

BRIEF LIFE SKETCH

opinion of their conduct, may I not respectfully say that to them and to their superiors through them this House will express its opinion of their conduct? It is that which is the true issue. The true issue is not, as they pretend. "We the middlemen are thoroughly innocent babes: what can we do? Therefore, please excuse us". That is what they say is the Constitution. I have never heard of such a Constitution: I have never heard even though there is the power of superintendence, that men with the position and power which they enjoy are always obliged to follow the behests, against their own judgment, of the Great Mughal if that is the name by which they wish to honour their chief and their head. The question, therefore, is shortly this, and let there be no shirking about it. Undoubtedly it is, as I said, indicative and a token thing. It is not a thing in itself; it is not the Rs. 70,000 that is in issue, because leaving aside the Secretary of State, what were we saying? What we were saying was that you have not administered the government of this country, that you have not carried on the government of this country entrusted to you within this very law in the manner in which you should and ought to have done. That is the issue, and to those who are, if my friends will have it, still willing to understand and follow my reasoning, and give a vote according to their conscience,—even to them equally my appeal lies. I am prepared to appeal to my friend, but he has already forewarned me that it is useless to appeal to him, at least he has told me that he has made up his mind on this particular issue. I, therefore, appeal to those who are prepared to understand the true issue and vote upon it. The true issue is not, as Mr. James put it,—what are they to do, what are the Government of India to do? I hope and trust that he does not need the assurance that I read the Act before I came here, and even before that. I only hope equally that it was not necessary to remind me that there is such a section as section 2, in fact I turned up many others, the section under which my friends function,

I have carefully read the remarks which I addressed to this House on the first occasion with reference to this Bill. And I further assure you that, but for the fact that there are matters which, whatever might be the fate of the Bill, it is both the interest and the duty of the House to know, I would not have thought fit to occupy the time of the House. To a certain extent, the speech of my Honourable friend, Sardar Sant Singh, in the manner in which he analysed the sections of the Act which is sought to be repealed, has left me in a position to shorten the observations which I have got to make. There is one more matter which evidently has not received sufficient attention of the House, perhaps by reason of the fact that my Honourable friend, Sir Abdul Halim Ghuznavi, had given notice of an amendment for their omission, and for some reason, which it is very difficult to understand to some and very easy to understand for the others, the amendment has not been moved. The clause before the House consists mainly of two sub-clauses. Sub-clause (2) says:

"All proceedings and prosecutions pending on the date of the coming into force of this Act shall be deemed to be withdrawn."

And sub-clause (3) says:

"All sentences of imprisonment or fine or both that may remain to be undergone or paid by those convicted under the Act shall cease with the coming into operation of this Act."

I am aware, Sir, that under the General Clauses Act here, the repeal of an Act does not affect either the proceedings of the prosecutions pending or the sentences of imprisonment or fine which have not been suffered and paid; though I am bound to call attention to the fact that prior to the enactment of the General Clauses Act the English law stood as follows. I am reading from Maxwell on Interpretation of Statutes, page 342:

BHULABHAI J. DESAI

Seventeen years ago I had occasion to frequent the Bombay High Court. The front rank lawyers there in those days formed a goodly company headed by the famous Mr. J. D. Inverarity, then a doyen on the decline and since deceased. In this wrangling clan conceding to the aged Scotsman by a legal fiction the leadership which in effect they had challenged with success, were Mr. D. F. Mulla (afterwards Sir Dinshaw Mulla), Mr. J. B. Kanga (now Sir Jamshedji Kanga), Mr. M. A. Jinnah, and the very refined Mr. M. R. Jayakar who combines a fine gift of eloquence with the hesitation of a Hamlet. But the man who fascinated me most was Mr. B. J. Desai who was hardly known outside his profession. Time has brought its revenge, for that rather plain name has lengthened into the more impressive Bhulabhai J. Desai and its possessor to-day wears the triple tiara of leadership of the Bar, of the Congress Party, and of the Opposition in the Indian Legislative Assembly.

Mr. Bhulabhai Desai was born on the 13th October, 1877, at Bulsar, in the Surat District, not very far from Bardoli, in the Bombay Presidency. He belongs to the Anavil Brahmin community of Gujerat known for its culture, learning and patriotism. His father was a Government pleader. After his early education in his home-town, he joined the Elphinstone College in Bombay and passed the B. A. degree examination with first class honours. He was thereupon offered a Government of India Scholarship to proceed to England to compete for the Indian Civil Service, which family circumstances prevented him from accepting. So he studied for his M. A. degree, took it and became a professor in the Gujerat College at Ahmedabad. He gave up this appointment after two years and having qualified himself for the law in the meanwhile, joined the

as a necessary sequence, so far as this particular Act is concerned. On the previous occasion, Sir, I had occasion to observe and make remarks with reference to section 17 to which I only wish to make a reference in passing. I have no desire to travel over that ground again, but the point I submitted was that here is an executive government wanting this and nothing less. It is not as if you are today considering a provision which might be changed or altered or pruned or amended or moderated. You are here face to face with a Statute in which either you take the extreme limits of every words that is there or nothing. That being the position, as I pointed out with reference to section 17, it has been interpreted by many High Courts in India to which attention has been called in the Statement of Objects and Reasons "and has inflicted an amount of injury, and injustice, so wide and general, "that the highest Courts in India have had to point out and condemn them", and among the most important has been that there is no qualification to the infliction of punishment for assisting the operations of an assembly which may be declared illegal under section 16. In fact it was pressed upon many High Courts that at all events they should read the words "unlawful" operations of an "unlawful assembly", but they said that the Legislature has given unchartered liberty so far as the executive in this matter is concerned, and they must enjoy it so long as the Legislature choose, either in their ignorance or in their lassitude, to continue to allow to remain on the Statute-book an Act in which once an association is declared illegal, however lawful, however proper its acts may be, any association with its lawful acts is still punishable and is in fact and has been punished during th last four years. Coming, Sir, to the real mischief of the Act, it is in sub-section (*b*) of section 15 (2). If the matter had stood at (a), there is a definite position and power which an executive may be understood to claim in an emergency if one is made out satisfactorily. Section 15 (2) (*a*) is:

Bar in Bombay. He made his mark at once. The Bombay Bar then was the virtual preserve of barristers, mostly British. Its privileged defences, however, fell before the forensic assault of Mr. Bhulabhai Desai, a rank outsider to the Inns of Court, and he whirled from success to success with vertiginous rapidity. His practice soon covered the whole Presidency. And in Bombay, the second city of the Empire, where Big Business has eclipsed the liberal professions, Mr. Bhulabhai Desai held his own among the moneybags of Malabar Hill.

Like Pandit Motilal Nehru, he began his political career as a progressive Liberal. But during the Home Rule agitation, he cast in his lot with Mrs. Besant and Mr. Jinnah and his help and guidance contributed substantially to the great success achieved by the movement in Bombay. This also brought him into active touch with Mahatma Gandhi and later Mr. Vallabhbhai Patel with the material result that his services began to be devoted more and more to his own province of Gujerat. On several occasions, at great pecuniary sacrifice, he responded nobly to the call from Gandhiji for legal succour to the peasantry of Gujerat. The famous Broomsfield Report which completely vindicated the case of the peasants of Bardoli and brought them great material relief is ascribed in great part to the able and energetic advocacy of Mr. Desai.

High office has no attraction for him

High office is often the reward of a brilliant legal career. Mr. Desai has not yielded to its glamour, and has viewed it with averted eyes. In 1923 he was offered a place in the Executive Council of the Governor of Bombay, but he declined it. About that time, too, he was repeatedly offered a High Court Judgeship only to be refused again and again. His mood seems to have altered in 1926 when he acted as the Advocate-General of Bombay. The change

activity unless its purpose is something quite different to what I respectfully submit is legitimate under the Government of India Act. Under section 26 (3) of the Government of India Act, this is what is required as an obligation:

> "The account shall be accompanied by a statement prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India."

Self-consciousness of guilt

You have there, Sir, laid down the sources of information—the detailed reports from each Province—and it is a compilation which is a statutory duty for the purpose of presenting the moral and material progress of the condition of India for that particular year. In years past this used to be compiled, if dull, but at all events, in a much more straightforward and honest way. It presented the actual events of the year, the facts concerning its trade and othe activities. But during the last some three years the activitie have taken an entirely different turn. It is a matter foı which some justification is said to exist, but which, I hope and trust for the reasons which I shall presently give to the House, it is not possible to justify. It is said that the Government of India require publicity for their own activities. There are two answers to that particular claim. First and foremost is that on their own confession, they do not rely upon public support for their continuance or for their justification. So far as any response to public opinion is concerned, again on their own confession, they absolutely are deaf, if not dead. That is the attitude. In addition to that, I think it was admitted last year and also admitted during question time on several occasions, that there is a group of friendly newspapers always at their disposal, favoured if not supported, who carry on their propaganda in a manner which perhaps cannot be exceeded by any Government Department having to incur all the expenses which are incurred under this head. I, therefore,

was only momentary, and he did not care to accept a permanent office in that capacity. I have it on good authority that he was sounded as a proper person to fill the high post of Law Member of the Government of India. His close personal friends pressed him hard to avail of the unsought opportunity but Mr. Bhulabhai Desai proved a Barkis who was not willing, and he declined the appointment in anticipation. This consistent refusal of offices actually offered is a rare event in the public life of India and it elevated him to an exalted plane. It gives him a touch of that greatness which is due to silent self-denial. His was not a mere negative attitude of recoiling from remunerative offices. He has gone one better, and at the testing time has paid the penalty of his political convictions. A sentence of imprisonment for a year and a fine of Rs. 10,000 passed on him on the 25th July, 1932 under the Emergency Powers Ordinance for his Congress activities, is the ostensible measure of his martyrdom, but a ruined health, the recurrent sequel to his incarceration, must be added to the account of his real sacrifice.

Vivian Grey, the young hero of Disraeli's first and famous novel, persuaded himself that to succeed as an advocate he must be a great lawyer. It is not a correct conclusion, but it applies to the remarkable career of Mr. Bhulabhai Desai at the Bar. He may lack that vast and weighty erudition which raised Sir Rash Behari Ghose and Sir Dinshah Mulla to a certain juristic renown; still he is much more than a clever advocate who wins verdicts. Clearness is often mistaken for superficiality and is not infrequently a hindrance to a reputation for profundity. Mr. Desai has lightness and lucidity that conceals the depth of his legal lore. Yet this knowledge is equal to the exigencies of any situation. The Rt. Hon'ble Sir Tej Bahadur Sapru, speaking with the inside information of a former Law Member of the Government of India, has said that Mr. Bhulabhai Desai was one of the two lawyers of distinction whose evidence most

We have only to read the two parts together. They are performing a statutory duty to inform the Parliament correctly, accurately and honestly, what has been the moral and material progress of the country during the year in question and they alone can have the temerity to say that none-the-less it is not to be understood that the approval of either the Secretary of State or of the Government of India extends to every particular expression of opinion. If it is intended to guard against criticisms, if it is intended to protect themselves or hedge themselves against any liability, I can well appreciate what they would describe as the tactics of a rag newspaper, but for the Government of India to say that they are performing a statutory duty and lest it should appear that in the performance of that duty, they have committed any dereliction of duty, to attempt to hide themselves behind the statement that is made in the prefatory note is amazing. They further go on to say:

> "In so far as the first chapter on politics and administration is concerned, it refers to the calendar year 1934."

So much for the manner in which self-consciousness of guilt is written large on that prefatory note. However if it were not so, there is not the smallest reason why they should not as straightforward men take the responsibility for their own compilation which they are called upon and required by the Act to do. But they are so conscious of having exceeded their rights, of having abused their privileges and having wasted public revenues that they themselves, from the start of the report, said, "but please take notice that we do not hold ourselves responsible at all", because the expression is such as to cover almost any attack that may be made on the opinions therein expressed. For indeed it says, that it must not be understood that either the approval of the Secretary of State or of the Government of India extends to every

impressed the Repressive Laws Committee of the Indian Government fifteen years before.

His Services to Peasants

Mr. Desai gave another convincing demonstration of his mastery of the law when he appeared on behalf of the peasants of Bardoli before two Special Committees in 1928 and 1931. Notwithstanding these proofs of his quality as a lawyer, his true metier is that of the advocate. There are subtler and more massive minds in the legal profession in India, also more tenacious fighters. But Mr. Bhulabhai Desai is unrivalled in the charm of his presentation of a case. He is suave; he is supple. He has no use for minatory tactics which are sometimes adopted by professional wranglers. He not so much argues as weaves some strange oriental spell. Each fact is thrown in its proper place; emphasis is laid where it is due; and the relevant case law is cunningly fitted into his exposition. He deprecates repetition, and gives little or no chance for interruption which if comes, never ruffles his tenor or temper. His ingratiating manner precludes the possibility of a "breeze" in Court. Not that he has the artfulness of a courtier. He has all along maintained an independence which nevertheless he will not suffer to sink into mere intransigence. In his long career as a lawyer only once has he got into a dead alley with a Judge. That was when he represented the Bardoli peasants before the Broomfield inquiry. Mr. Desai's able interpretation of the law did not have any effect on the presiding officer. He therefore, withdrew from the case, to the regret of that officer himself who expressed it with becoming courtesy. That is the way of Mr. Bhulabhai Desai. He will not nag.

It was hardly even expected that this mild-mannered advocate with a penchant for "sweetness and light" and commanding a splendid practice, would rally to the Congress.

been written with a venom, with a poison and with a directness which is yet to be beaten even by a party Press without attributing a single honourable motive any single good thing that has been done througho the year.

I will call attention during the short time at my disposal to only three or four of the outstanding features of the publication, leaving it at all events, to one more speaker belonging to this side who will be able to carry forward a few more further points which remain in the book. At the very outset of this book, it begins with 'Politics and Administration' and it warns the readers that political interest in 1934 centres once more largely in the Congress. That is on page 1. After trying to give the history of the Congress and its apparent solidarity, which they do not like, but which they wish to comment upon by saying that there are difficulties within it, and I make a present of that opinion of theirs to them,—they begin at page 4 by saying:

"It was at this stage that Mr. Gandhi undertook a tour intended to further the interests of the Depressed Classes. This he had set himself to achieve by appealing to Hindus to modify certain social practices, throw open temples to untouchables and contribute to a fund for the furtherance of his programme. His intention was to visit all parts of India......As the tour progressed public interest in it, which at the outset had been considerable, appeared to wane; crowds still assembled at the places he visited", etc.

After saying all this, they say:

"Resentment over the constant calls for cash and misgivings as to the manner of its expenditure, did not seem likely to operate to the real advantage of the 'Harijans' but rather to pave the way for reaction."

And, at the end, they say:

"In the circumstances, it is natural that certain observers saw in the Harijan campaign motives other than a purely altruistic desire to remove social disabilities."

Few or none know the exact reason of his belated decision to serve under the hazardous banner of Mahatma Gandhi, a decision which has hitherto remained one of the unsolved riddles of Indian politics. It is not attributed to any such personal pique as is believed to have been the exciting cause of Pandit Motilal Nehru's sudden move against the British regime. Nor can it be explained as an immediate response to the "call" of Gandhi which has had so hypnotic an influence on several of his countrymen, for during the tense time of non-cooperation, when the Mahatma's political method of Passive Resistance had the added attraction of novelty Mr. Bhulabhai Desai refused to be drawn into it. There is one circumstance, however. which perhaps throws some light on his conversion from a "woebegone Moderate" to an ardent Congressman. I have already stated that his birth-place was not far from Bardoli, the storm-centre of Satyagraha. The heroic and almost unanimous reaction of the poor peasants of Bardoli to Gandhi's campaign of civil disobedience, of which Mr. Desai gained detailed knowledge as their Counsel at the Broomfield Inquiry, might have struck a sympathetic chord in his heart. Yet he hovered hesitatingly till the death of the great Pandit Motilal Nehru left a void in leadership. The die was now cast, and Mr. Bhulabhai Desai, stimulated by patriotism and ambition, stepped forward to fill the bill.

Joins the Congress

It was not until 1930 that Mr. Desai fully and formally joined the Congress fold. He and another famous barrister and business man were the two super-aristocrats of Bombay who amazed their class and the world by openly allying themselves with the activities of the Congress. They loosened their purse-strings and gave freely towards the upkeep of the movements. But Mr. Bhulabhai's stately mansions became the rendezvous of Congressmen big and small going to or coming from jail and soon he found himself too in jail

Secretary of the Central Harijan Committee saying that that is an entirely false statement, both as to the funds and the demands for cash and also as to the misgivings as regards its expenditure. The tour in fact was marked by greater and greater success. At the end of the period of the tour there was a contribution given by pies and pice totalling no less than two lakhs of rupees. The accounts are published and audited; and it requires indeed no legal mind to be able to perceive that your comment cannot be fair if your facts are not accurate, and your comments are less than fair when you see wicked motives into a pure movement. That Sir, is the method in which this report is prepared for the purpose of presentation, to Parliament if you please, Parliament which is going to legislate from time to time, which is said to have the entire central power and responsibility for the progress and growth of this land. If they are doing their duty, at least on the meanest platform, they ought to have had the honesty and candour to say that India is progressing, instead of trying to whittle down, trying to lower the movement the value of which, the purity of which, the greatness of which, they could not otherwise deny. I pass on, Sir, to the next passage in that book:

> "At this stage we must turn aside from discussion of Congress affairs...."

> "......to describe briefly the outstanding event of the first quarter of 1934 and its political reactions. On the 15th January occured the disastrous Bihar earthquake........and local Congressmen generally co-operated with Government throughout the first stages of providing immediate relief........Considered in retrospect, it is legitimate to say that Congress as a whole appreciated the opportunity provided by distress over so large an area to rehabilitate their prestige, not only by a vigorous show of interest locally in Bihar, but also by publishing reports tending to minimise the activities of Government."

The nature and character of the mind that, standing in the face of such a great calamity, can make and attribute a motive of this kind exceeds at all events my powers of

sentenced to a year's imprisonment as an organiser of civil disobedience. Ever since then, Mr. Bhulabhai has occupied a prominent place in the front rank of Congress leaders.

It was a courageous resolve that showed his self-confidence. He felt sure that with one colossal stride he could overstep the intermediate and usually indispensable stages of political probation, and conduct himself without much ado to the seat of the mighty. Save for a brief spell of activity in the War time agitation of Home Rule for India, Mr. Desai, amid his professional pre-occupation had given a wide berth to politics. He was never in any legislature except perhaps for the short time when, as Acting Advocate-General, he was ex-officio member of the Bombay Legislative Council. Despite this heavy handicap, he has instantaneously made good as a parliamentarian and party leader. The leadership of the Congress Party in the Legislative Assembly which also means, though not invariably the leadership of the Opposition, is fraught with peculiar difficulties. For one thing, it is a role of perpetual opposition against an irremovable executive. Unlike Prince Rupert who never rode except to victory or to a fall, the leader of the Congress Party in the Assembly never could charge to victory, and is very prone to a fall in the esteem of his own impatient followers when they have outlived the intoxication of a general election. After some preliminary triumphs, the joy of leadership begins to pall. Pandit Motilal Nehru used to stage dramatic "walk-outs" by way of sustaining popular interest in advanced politics, and eventually threw up the coveted mantle. Mr. Bhulabhai Desai is new to the job, and for the moment is in the fine mettle. One cannot say whether he will tire of it after "beating in the void his luminous wings in vain."

His debut in the Assembly was watched with keen interest. Among the distinguished visitors who thronged

that every rupee that the public has voluntarily contributed and of which we are the trustees we may be in a position to save." Even in organising such relief with reference to Quetta relief, we did not make it a matter of superior charity; we made it a duty of man to man. And it is on that basis that as president of the committee that we organised in the city of Bombay within less than two weeks, we got assistance amounting to a lakh of rupees for suffering men, on nothing but pure grounds of humanity, not merely from those who threw crumbs, because they had plenty, not by way of charity of a superior and supercilious power but the assistance of the friendly hand to alleviate the sufferings of his own brethren. That is the spirit in which that particular organization has been worked, and it is a matter of sincere regret that this should be the attitude of any Government presenting, if you please, all the time under the statutory obligation a true and accurate report of the moral and material progress, and the condition, of India to Parliament. I can understand Miss Mayo's publication, I can understand many things of that kind being organised, in order to prejudice this country in a foreign land and particularly those who have legislative authority above us. But when openly and avowedly the Government of India wish to stand before this House and wish to support this kind of propaganda, all I can say is that they must have come to a very low level indeed.

There is only one more point I wish to say. There are two more charges which are actually contained in the book and I shall only call attention to them. The next charge relates to the motive behind the organisation of the All-India Village Industries Association, and the last but not the least, the successful campaign which they cannot stand day after day—the sight of us who are here as the result of the last elections. All I can say is this: that this House will mark its disapprobation of methods of this type, abuse of power and waste of public money. Sir, I move.

the galleries of the House were two past Presidents of the Congress who had travelled long distances to hear Mr. Bhulabhai speak with the authentic voice of the Congress Party. And he did come up to the scratch. Mr. Desai is both a rhetorician and debater. Ideas so teem in his pullulating brain and he has such facility of expression, that he is a little too quick to win the applause of his own listening admirers. He is not verbose, but dexterous. A member refers to the vexed question of the communal scramble in India as an argument against self-government. "Acquisition before distribution" retorts Mr. Desai and the phrase catches though Mr. Jinnah, the Muslim leader, tries a potent prophylactic. He has an admirable adaptability. He took to public speaking late in life and yet he conspicuously succeeded in the art. So finished an orator as Mrs. Sarojini Naidu has paid a striking tribute to Mr. Bhulabhai Desai's eloquence. Nevertheless, speech is not the "fibre of his being." He is not too eager to indulge in it, but uses it with restraint to promote his larger purposes.

Compared with Pt. Motilal Nehru

"How does Mr. Bhulabhai Desai compare with Pandit Motilal Nehru" is a familiar question in India. Now, I do not agree that comparisons are always odious. On the other hand they are necessary for an adequate personal appraisement. Pandit Motilal Nehru had a great political reputation even before he became the leader of the Swarajists. He was a former President of the white-marbles and famous "Anand Bhawan" and above and beyond these was father of his only son Pandit Jawaharlal Nehru, then a portent looming large on the Indian horizon. Round the senior Nehru's name had gathered many a legend which was current in the country and made him out to be a non-pareil of a man. Mr. Bhulabhai Desai did not have these advantages of tradition which has a peculiar impor-

you—all the rest would not have been admissible in a Court of law. You cannot be allowed in giving evidence of the present intention of the men to say "Yes, from a school boy he grew up and up and up, and until he became the best of the Congress Nationals." If, in their eyes, that is crime, all I can say is that the House, I hope, will not attend to that as being a part of an evidence. They think it may be an insidious method of argument, but in any Court of law, in any court of conscience, in any court of common sense, could we ever be told that, except that single letter of Krishna Das, anything has been said to this House—a great deal has been said about the condition of Bengal, a great deal has been said about the earlier biography of a man who gave up a big service in order to join non-co-operation —is that a crime or is that an act of sacrifice showing a large, generous, patriotic mind? What is it that he did? If he delivered a speech which was seditious, he was tried and punished. That cannot be a continuous crime or a recurring offence. If it was a recurring offence, here was nothing to prevent them trying him another time as they did Pandit Jawaharlal Nehru. Why did they then resort to this act for the purpose of what is called bestowing upon him a graceful pension—they can keep the pension if Subhas only can regain liberty. Therefore, the true issue before the House is this: Has any evidence been placed before this House—assuming that we are to judge the matter on this lower ground—of his immediate intention on his arrival in this country, so that the condition that is there in Bengal may provide a circumstance of which he is going to take advantage? And, of that, not a word has been said. But there is more than that, so far as I am able to state to this House. I am in possession, Sir, of correspondence—and from the way in which Government have copied practically every letter that I have hitherto received, from the manner in which it appears to have been re-gummed every time— I am sure they are in possession of the fact that he has the avowed intention of coming back to this country in

tance in caste-ridden India. Although as a lawyer he is the more palmary of the two, in politics he was a "novus homo" at the time he assumed the high command of the parliamentary section of the Congress. In debates Mr. Nehru was a sort of sledge-hammer; Mr. Desai is like a chamois that leaps from crag to crag with ease and rapidity. Mr. Desai is a better public speaker than Mr. Nehru was, but the latter had a sense of humour which is wanting in the former. Mr. Nehru had the compensating merit of being a more vigorous penman than his successor. The most obvious difference between them is in respect of that indefinable something called personality. Motilal Nehru was a study in conscious power. He had the hauteur of a hidalgo. "To govern men" said Disraeli, "you must either be superior to them or dispise them." Pandit Motilal Nehru seemed to have done both. A well-known newspaper once called him the proudest man in India, and he quoted the remark with approval. His enormous jaw was a kind of royal proclamation that he meant to rule as well as to reign. He exacted implicit obedience, and took prompt disciplinary action against the recalcitrants of his own party. He nearly finished so prominent a colleague as Lala Lajpat Rai in a famous controversy on party allegiance, which was only closed by a moving appeal of the Mahatma to the disputants to desist. Mr. Desai's manner is quite different. His circulating smile is a welcome sign of his agreeable urbanity. He has tact. He works in closer cooperation with Mr. Jinnah and his group in Assembly than Mr. Motilal Nehru ever did, and has kept his own party in a better trim for team work. He enjoys a larger measure of popularity, especially among Britishers. This is the more worthy of note inasmuch as he is rather indifferent to the gentle art of personal advertisement. He does not cultivate a good Press whereas Mr. Motilal Nehru owned newspapers and spent a fortune on them.

Mr. Bhulabhai Desai is one of three most important

termination should be given. As against that, I have not seen any other opinion expressed by the British interests even in this country.

Now, Sir, after all is said and done, the experts' opinions do not matter in the light of this affirmative evidence provided by persons whose interest and daily interest is touched and affected. I have been told by my friends that they are cleverer than those whose pockets are touched and who understand their interests. But we would rather not take their speculative advice, but prefer the more concrete foundations of those who are able to say how much money goes into their pockets and how much money goes out of their pockets. They cannot be under a mistake, if two rupees have gone out, that they have gone out, though my friend, the expert, may lead them to believe by a jugglery that they ought to think what is not a fact and both the rupees are there. So that, the question no longer depends on the advice of experts at all. After all, you are considering the interests of the trade of India, and who is more fit to pronounce as to the result of the trade operations than the interests affected by those operations? Therefore, it requires no examination by our friend, the expert who would say. "If you had not done what I had told you, you might have been worse," a proposition which cannot be tested. "What I am telling you is this. If you do not continue to take my nostrum, you may be even worse in future." That is not the kind of thing that a man endowed with any common sense, trained either in business or in law can pay heed to at all, and I am really surprised that experts should come in where the patient is in a position to pronounce upon his own condition,—its advantages and disadvantages, and benefits. We are, therefore, face to face with this issue,—on those opinions which have been expressed, is a further continuance of this Agreement to be agreed to? The next issue is, what is to be lost so far as the interests of India are concerned? I am informed

:ioned for the presidentship of the Congress. He
ıat driving power required for a popular leader.
s label, he is a man of moderation and is sub-
double enfilade. His label exposes him to the
the Liberals whom he does not spare, and his
ı is an anathema to the Socialists. He seems to
ı pains to study the Socialist case, and has gone
to admit in the Assembly that he has read
:elligent Woman's Guide to Capitalism and Social-
he is not convinced of the practicability of So-
even the Shavian or Fabian variety. He has all
distrust of rose-coloured visions.

Dislikes Ostentation

is a trifle below medium height, has a brown
ı, and a handsome appearance. His smooth hair
:ompletely grey, and his erstwhile clipped mous-
ow a thing of his buried past. He has a round
ce with a chiselled chin that is divided into
deep dimple. He has a fine clear voice which adds
arm of his speech. No sooner had he taken
ıs Member of the Assembly than he fascinated
: by his silvery tone. He is courteous and
and his manners are distinguished by a natural
t exactly a high-brow, he has yet an air of
Ie dislikes ostentation, and has never been a
ren before he came under the austere influence
. He enjoys the special esteem of the Mahatma
ıade considerable changes in his own political
to suit the taste of his new friend and fol-
whom is due the revival in its present form of
:ss attack in the legislatures. Gandhi also acts
haracteristic astuteness, as a useful buffer between
vaharlal Nehru, the candid Socialist, and Mr.

those matters. In a sense, that omission perhaps is fortunate in that I have now had an opportunity to read in cold print the statement made by the Chair and also the benefit of the Chair's advice that I and those who think with me should consider calmly over these incidents and I take this early opportunity of making my position and of those who think with me clear as regards those incidents.

No surrender of judgment to another, however eminent

In the beginning I should observe that it was one of those rare occasions even in the life of this House and while I have read of similar occasions and events in other public Assemblies, more often than not they have been largely the result of a deliberate action by which any section of the House intended to express its protest by the kind of conduct which you have called a demonstration. In fact, it is to the credit of this particular occasion that without any premeditation of any kind the integral part, nearly the majority, of this House spontaneously, without any deliberation of any kind, as a natural instinct of a resentment, undertook to do what they did on that evening. For it was not a calculated act to offend any individual person but nonetheless it was the spontaneous expression of what they believed to be a protest against wrong. With great deference to your position and the numerous personal qualifications with which you are endowed, I maintain that the attitude of that section of the House that evening was amply justified and I say that with great sense of responsibility not as a mere matter of phrase making as it is often used but with the amount of anxiety and care which I have devoted to its consideration and while your rulings or judgments may not be questioned in the sense that they should be obeyed no more and no less than the judgment of a tribunal, no man may surrender his judgment to another man, however eminent he may be. In a recent judgment of the Privy Council, the Lord Chancellor took

Desai who is the sheet-anchor of the capitalists who contribute to the funds of the Congress. Whether Mr. Bhulabhai Desai will accept office or not in the new era his sanity will be invaluable in the distracted counsels of Congress. The Political future of India is to a large extent bound up with him. And I hope he will toe the mark.

(Copied substantially from the life sketch published by Mr. O. M. Thomas in the Hindustan Review).

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wrote in his last book on economics, *viz.*, that the British Empire is now disintegrating by common consent excepting the colonies and India. I am only reminding the House of that in order only that it may be remembered that promises made of equality, of citizenship in the Empire, I hope, have some more meaning than smooth sentiments expressed through the mouth of my Honourable friend Mr. James. While I accept every good office with a sense of regard sincerely expressed, I cannot accept the patronising sympathy which has been extended to us for a long period of time while it has never been translated into practice on any critical occasion and to any useful purpose. I am, therefore, not inclined every time to be impressed, as some of my friends will do as soon as they see a smile arise on a face on the other side, because it is difficult to agree with only two-thirds of the centre part of the House,—it is only two-thirds of the centre back, in the language of some of the games with which I am familiar. I really am unable to understand to which side they belong, if ever we are able to spot them when the time comes on a crucial question.

But, Sir, the case is lost only to those who believe and accept it as lost, but never to those who believe that the case will only be won by those who will never accept defeat, a virtue with which my friends ought to be familiar:

"Never say, 'die' until you are dead, and we will muddle through."

I am, therefore, not standing here in this House on any footing of the type that has been described from time to time, that is, that this is a case of which there has been a certain amount of mitigation and that the mitigation is such as we should be grateful for, which is after all the only plea put forward by the Member who spoke on behalf of the Government. I quite agree he took a somewhat different constitutional view of the issue before the House than he need have taken.

WE ARE NOT FAINT-HEARTED

Coimbatore 8th July 1934.

I owe you an apology for not being able to address you in your own language, but at the same time I have the hope that on the next occasion when I am able to address a similar gathering, the Hindi Pracharak Sabha would have made enough progress to enable me to talk to you in a language that I can speak and you can understand. The interpretation of what I have got to say has become all the more necessary because of the great progress that the Indian National Congress has made in the hearts of every single section of the Indian community.

The Indian National Congress originated in the idea of freedom held by those who were educated in the languages and sciences of the West, and undoubtedly in those days, it was not possible to reach the masses with the mission, object and purpose which that great body has now attained. Time was when the Congress had to bear the ridicule of being a microscopic minority of a few intellectual agitators divided from the rest of the country. But now we have attained the position that every man in the street, be he peasant, labourer or agricultural worker, recognises the Congress as the only institution that represents the Indian people.

The last Satyagraha movement has brought home to every person who advisedly or unsuspectingly doubted the Congress claim of representing the masses of the Indian people, that the Congress does represent the masses. To-day, I am in a position to congratulate this town, among numerous others, on bearing witness to that great struggle for freedom for which, during the last three years and more,

becomes the object of hatred and becomes necessarily the object which must be destroyed.

In so far as Communism or Communistic State which was the basis on which the Russian Revolution took place was concerned the effort was this. The effort was to make the whole of the society, which made the State own the instruments of production, that is to say, the society as representing the people, should be the owners of land which is the principal means of production as well as owners of factories which are another means of production so that all members of society to the extent to which their ability and their strength permitted would find employment. Thus, the Communist State was founded upon the acquisition of al' means of production, in other words, destruction of privat ownership of means of production.

Two Ways

Now there are two ways of attaining a measure o this kind. One is evolution, that is to say, that each membe of society begins to realize in an ethical or moral sens that his duty is to labour for the common good of the society to which he belongs and not for private gain o personal good. Ethically undoubtedly even individuals among us who work for society relatively more than for themselves are indeed respected in all societies and therefore one may assume that it is ethically a better evolution of man, if and when he attains it. Then of course there will be a voluntary association of all citizens not to work for personal gain, but to pool all their resources for the good of society so that nobody goes without the minimum means of livelihood. There is another thing which we must all recognize. If you ask yourself you will recognize that at present individual man as he is evolved, his impulse to labour is the desire of personal gain, however much he may be willing to part with it for infinite motives. The impulse to labour to-day in the bulk of men is the desire for private gain or private property.

every sacrifice of personal liberty, of property, every form of suffering and injury in which we could express our love for our Motherland without retaliation, without bitterness and without rancour, and yet in the hope and belief that by our action and by our conduct we were standing not merely by the great doctrine of Ahimsa, by the great doctrine of Truth, but also, supported by these two doctrines, the great doctrine of the freedom of the subject races of the the world, has been made ungrudgingly by the nation.

Out of that community of suffering there has arisen a bond between the East and the West, the North and the South of this great land of Bharata, and you may really depend upon it that, whatever task the Indian National Congress will set itself to, it will find an answer and response from every corner of India.

Gain of the Struggle

As a result of the suspension of that great struggle under the advice of Mahatma Gandhi, there are people who, with a certain degree of unfortunate elation, assert that the Congress has been defeated, at all events, for the time being.

It is not my desire to stand before you tonight on behalf of the Congress either for self-justification or selfpraise. But I will claim this for the last great struggle through which we have passed and history bears witness to it that in the earliest assertion of the right to freedom, he would be a fool indeed who would expect that the immediate pressure of the very first intensive struggle should result in the achievement of that great objective. The great gain of that struggle is the moral advantage that you have gained. There is perhaps hardly any here who, ten years ago, when that great struggle on a basis entirely unknown to the world of force, was launched, expected that we would gather behind our banner a thousand men and women. And it was only ten years after that, notwithstanding the ridicule,

of the Punjab, are not to be altogether left out of consideration for the purposes of this Bill. I daresay it might be today that that is so but I hope that is not going to be the case in future.

Let us be Men

Therefore, the motion that we stand for is of an exceedingly modest character. Government have made out no case: they themselves almost confess that they cannot produce an iota of evidence except for a few socialistic and other meetings which were alluded to by my Honourable friend, Mr. Maxwell. Beyond that, they have produced no evidence. There is nothing in support of rushing this measure through this House and we, therefore, ask at all events that we may have another opportunity, first of knowing what the Indian opinion is, and having known that, to what extent this matter of principle stands in the light of proved necessity,—and whether or not one of the elementary principles of human liberty, that of persuading one civilian by another to do so and so and not to do what he is not obliged to do except under peril of a punishment like this—is violated. One word more, Sir, and I have finished. The fact remains that they visualise a war—as will appear from the Statement of Objects and Reasons. Now we would never be willing parties to such a war, for we realize that the Empire in that sense stands for quite different ideas and ideals and of which we have been the victims for quite a long time. Sir, I am not one of those who wish to be perpetual slaves of Britain because some of my friends tell me, "Oh, if Britain goes, Japan comes"; at all events, so far as I am concerned, I am one of those who believe at least in trying to carry on a struggle ourselves, instead of perpetually remaining on as slaves lest another man may deprive you of your liberty. It is one of those specious arguments which we are accustomed to listening to, "Oh, but there is fear all-round, how are

notwithstanding the design to divide, we were able to muster, in spite of the unwillingness of the Government a lakh of people within the portals of jails, who willingly suffered imprisonment so that their own loss of freedom should bear witness to the struggle for freedom in times to come. And you must remember that it was not a very willing step on the part of the same Government, that out of the class of people who offered themselves for the hands of the Police in order that they might show their sense of sacrifice, in order that they may show their sympathetic support of the struggle that was going on, they hardly arrested a citizen. On the other hand, a great many were beaten and bruised. If to-day a census could be taken of those who supported the last struggle, I venture to say that we have at least actively ten million men, women and children of this land asserting their freedom.

The question is how far, notwithstanding the physical suffering, the physical suppression that, for the time being, you have yielded to, how far the spirit of liberty lives in you and will revive and awaken again at the call when that occasion arises.

The One Aim

Ladies and gentlemen, no nation however great, not even those nations that fought in the Great War of force in Europe, can continue the struggle on the same plane and at the same degree of intensity, with the same degree of heroic effort along the same line of heroic enthusiasm. There are always in these struggles for liberty, ups and downs, ways and means, changes and skirmishes, with only one bright light running through them all. That is, as in our case, the one aim that we shall serve our Motherland and secure our freedom.

It is not a faint-hearted man that I am speaking to you, nor am I asking you to adopt what may appear to be a faint-hearted course ; for there is greater heroism in doing

the Indian has to drag himself up to a standard of life which is unusually extravagant in order that he might be a favourite with them. Some may succeed in that way and be treated more favourably, but the fact remains that the only solution of this disparity is the removal of the British element in the army, the removal of the British officers and replacing them by Indian officers. Then the question won't arise of social conditions of Indian life; the question won't arise of the manner in which the inferiority and superiority complex is sought to be created. Therefore, what we stand for is not the method of sprinkling and distribution and a servile portion of the Indian serving officers with British officers. That is not what we want. That is not the kind of demand with which we stand before this House, or if the committee is appointed, will stand before them. Therefore, it is with us a definite business proposition. If we find that the relative salaries are such that the disparity must exist, then we must go to the root cause of the disparity and not merely the disparity itself. I am not here to plead like some other honourable members for raising the pay of the Indian officer which we cannot afford. It is a question of lowering the other pay and not of raising the pay of the Indians. Therefore, we cannot accept the foundation of what you have done and in support of that and to that extent, to reach up to them. That is not our method. I may remind the House and I hope and trust that it is accepted that there are enough patriotic citizens in this country to serve the army with no eye to emoluments just as there have been in other walks of life. If you can find a Japanese serving his country as a lieutenant colonel in the army on a salary equivalent to rupees 250 a month, it is a disgrace to us that a foreigner can impose upon us a lieutenant colonel with something like Rs. 2,000 a month. Undoubtedly, inasmuch as he gets Rs. 2,000 a month the Indian who gets the Indian Commission gets about Rs. 1,200, according to the

what may apparently appear to be a drearier task than engaging in the heart of a struggle, a struggle which may for the moment evoke greater enthusiasm.

All honour to those, wherever, they live, who can serve silently and in a selfeffacing manner. Every single step they take, every word they speak, every disciplinary-action they observe, is entirely in co-ordination of a great cause. For it is not given to every one of us to frame our policy, to think out our measures.

The Spirit of Discipline

More often than not, I have been questioned on what the Congress would do on a particular occasion, and at a particular time, but the only answer I have given them is in the language which must have been known to every college student of your city, "Do the nearest duty that lies before you, and you may be quite certain that the next step will unfold itself." It is in that spirit of discipline that I have come to you with a comparatively modest message. For in the complex situation of the world to-day, if you examine the history of most of the democratic governments of the world, you may be quite certain that what a man, a peasant, a labourer can do is to confide in those who are able to direct their policies of the future. In other words, the practice in all democracies to-day is the selection of men and not of measures; for who dare understand in the complex world of to-day where lies the interest of each country in the difficult and thorny condition in which the world exists ?

I dare say there is no man here who would ever be able to tell me that any single voter in Britain is able to tell, when he casts his vote, what his representative is going to do either at the League of Nations, or the World Congress of Commerce or the World Disarmament Conference, or any other similar body in which their interests

Sir, modesty is not a virtue but an obligation. We do not get much and we must not expect much though we must fight, continue to fight for all. That being our motto, so far as I am concerned, I still look to the future with great hope and when clause 42 comes into operation I have no doubt that in less time than my Honourable friends imagine or apprehend even the railways will be under the complete control of this House. When that happens the true time for co-ordination will come. I quite accept that. I may tell my Honourable friends, who differed from me, that it is no use saying that what we cannot control we must destroy. It was not a doctrine to which I could subscribe from the beginning. My Honourable friend, Mr. Suryya Kumar Som, I think, has risen from his dreams and is now in the land of realities and I am quite certain that he does not wish to kill the child that may some day own him though he may not fully own that child today. Therefore, I have no doubt that he has thoroughly reconciled himself to the situation with the hopefulness of a step child being his own child in course of time. In so far as co-ordination is concerned, I quite agree it is but the beginning. But it is but a good beginning and a hopeful one.

Another matter to which somehow the House, I do not say out of a feeling of tiresomeness, yesterday, did not pay very much attention except to record a silent vote is Chapter VIII and its operation. I entirely agree that an industry as it is called, I do not wish to call it by any other name, you may easily re-read some of my speeches and my Honourable friend, Mr. James, in particualr, and find that in this present condition of transport, it is true that if we laid an immediate further burden, it might be difficult to bear, difficult to sustain in competition with that "monster system of railways" of which my Honourable friends were scared. But I want them not to be so scared. When they ride it, they will find it perfect-

have got to be guarded. The world has progressed. The world has become so complex that the democracies do their best by merely voting in the belief that their representatives would act with integrity and honesty rather than pretending to choose the actual measure of future amelioration desirable for them.

It is somewhat of an irony of fate that those who enslaved you, are the first to call you or your conduct a slave mentality, because you give your allegiance to your trusted friends who want to lead you to freedom.

The All-India Congress Committee has resolved, and by that resolution, formed a Congress Parliamentary Board, for the purpose of contesting the elections to the next Assembly and it is as the General Secretary of the body, that I stand before you now to tell you where your next duty lies. It is quite unnecessary to go into the history of the circumstances which have led to this decision, but allow me to assure you that it has been taken after a full deliberation of the actual existing circumstances, and of the situation in which we stand.

One Issue and One Only

We are not going to contest the elections except on one issue and one issue only. Please remember that this is not the type of election with which perhaps you have been daily familiar for the last few years; it is not an election of A against B; it is not an election for the purpose of grabbing power, authority or patronage; it is an election contested for the purpose of establishing national prestige.

The one issue on which the Congress wishes to contest the elections is whether the country notwithstanding the physical suppression, still morally stands by the Indian National Congress, or whether it approves of the policy of

the name of law, what was protected under the name of law, with license and liberty to suppress every form of human action, is the law of which you now approve notwithstanding the physical suppression. If you do not approve of that, you stand with us; and if you approve of that on the other hand, you stand for the Government, and stand for slavery.

Issue Greater Than Parties

That is how, ladies and gentlemen, the issue is greater than parties, it is greater than personal interests. We may otherwise have suffered, we may lie low for the moment but the issue is whether your sympathies are with those who have assisted in suppressing it. Here is a test of the soul force which you have claimed. At all events, even though we might have lost the liberty of person, we certainly have not lost the liberty of our soul, and it is by that test, when you cast every single vote for the nominee of the Indian National Congress, you would have given the lie direct to the assertion that you prefer to live under the domination of the cruelty by which you were treated rather than as free men under the wise guidance and leadership of those who suffered side by side with you, and will continue to suffer, not so much because it is a matter of any individual or personal interest to them, but because, by an irony of fate, the greatest race on earth is yet but a subject race. Conceived in this spirit, the duty that I am calling upon you to perform is a sacred thing worthy of the cause for which you fought.

I want you to consider that we have not come to you merely for the sake of gains, of office, of patronage or power. We have come to you at the end of a great struggle in order that you may testify your confidence in those who have always stood for you unswervingly, unhesitatingly.

Therefore, I ask you to consider it a sacred duty to

regard whoever stands for this province, whoever stands for this constituency, as an emblem of the Congress. You must vote for him notwithstanding his opponent's wealth, or titles. After all, the only true thing behind you is your own countrymen, and not those who are here to keep your liberty in their own hands as long as they can find instruments in your own brothers and sisters to forge the great shame of our Motherland. The Congress candidate is an emblem of the Congress. It is not for me or my friend Mr. Rajgopalachari, that you have to vote, but for the Congress. It is that standard you should respect, it is that standard round which you should rally, and it is that standard by which you will live if you deserve to live as free men and women.

Swaraj or Alien Domination

The next issue on which the Congress asks you to cast your vote in its favour is this: Do you desire to determine for yourself the future Government of your country or would you be content with whatever "constitution" is forced upon you, as is now proposed in the White Paper? On this issue there cannot be two opinions.

Before I conclude, there is a still humbler duty which I wish to impose upon you, and that is this. It is not enough that our national organisation is reorganised. It is up to every man, woman and child to do his duty by that great organisation. It is up to you to resolve, as part of your sacred duty before you disperse from here, that each one of you will make yourself a centre for the propagation of the idea that each person should subscribe himself as a member of the Congress, whether he belongs to a village, or a town. This is the one method in which we can reorganise our force and strength. I appeal to every person, who has a right to vote by direct or indirect representation to cast his vote for our great national institution, the Indian National Congress.

There is no such thing as a Hindu or a Mussalman, there is no such thing as a Brahmin or a Non-Brahmin, there is no such thing as a Sanatanist or a non-Sanatanist, or a Christian or a non-Christian, high caste or Harijan, in the matter of loyalty to the Congress. In the projecting hands of God, there is only one thing, and that is that a man who dares to believe and feel as an Indian, has only one sacred duty. That duty is to stand by his Motherland. I hope and trust that when you think of your duty you will refuse to be influenced by any of those devices that have been heaped upon us to keep us divided. Remember that the only ground, in the words of the Prime Minister himself, the only ground on which England dared—hat is what they say to the world—to attempt to force their constitution on us is that we do not agree between ourselves. And why do we not agree except for the fact that we are blind? We are blind because we will not see. You have only to take the Prime-Minister at his word and say that within a measurable distance of time, India shall present a united front, that her divisions shall cease, and that we shall learn to think in the terms in which every free and patriotic country thinks. The true issue for which the Congress stands to-day, the issue that the Mahatma dared to raise at the second Round Table Conference is this, namely, that none represent India, except the Indian National Congress and its accredited representatives.

INDIA'S MISSION IN THE WORLD

Speech at Sen Gupta Memorial Meeting Madras 1934.

It is somewhat an unexpected privilege that I have today in addressing again the citizens of Madras. It is not one of those meetings which was or could have been arranged for any of those occasions on which I addressed

you in the last two days, but meeting as we do to-night, it is up to us to mark the solemnity of the occasion by reconsidering in our life and conduct what is that we have gained in the life and death of our brother, the late Mr. Sen-Gupta.

In almost all religions, it is not as a mere form that people who are canonized as saints are chronicled in their calendars, but there is always a day attached to them not so much for their commemoration as to us who live behind them to turn our minds immersed in the every day affairs of life rarely to ask an account of ourselves. It is more with a view that man may turn to himself, in himself, and for his self-examination than anything else that these great days are commemorated. Whether it is in the religion of Islam, whether it is in the religion of Christianity, whether it is in the religion of Hinduism or whether it is in the religion of Buddhism, every single man and woman who has ever lived the life that deserves commemoration has always a day of consecration, not so much for those who have gone beyond as for those here below and it is in that spirit that we meet here to-night to commemorate and remember the work and life of our friend the late Mr. Sen-Gupta.

He Died a Prisoner

I need hardly tell you that he died as a prisoner, and be it said to his credit that he has left behind him an example for his countrymen which it will not be long before it is emulated, not merely in their thousands and lacs but in their millions. After all, what is it that we honour in him who is dead and in whose respect we have gathered together to-night? Not for him in so far as his physical life was concerned, for after all when you turn over in your minds, death is, not merely a contingency, but death is a certainty. It is not a thing that

may happen; it is a thing that must happen sooner or later to each one of us. I am not one of those who are obsessed with the idea that one should so live one's life as to concentrate one's attention on the life to come. I think that by the onesided ideal rightly or wrongly expressed a great many useful lives in this country are really being wasted and cheated out of their true purpose. Most of us imagine in a mood of religious frenzy, whether we belong to Islam or to Hinduism, that the only purpose of life here below is to get through it as quickly as possible so that we may attain salvation hereafter. No greater mistaken notion of the scheme of life, of the scheme of creation, of the purpose of God was ever conceived by man. It is entirely a misconception to think that we have been endowed with the life of faculties, physical, intellectual and emotional, only in order that each one of us may work for his own personal salvation. It was in that spirit that the life which was most coveted in India a short time ago was the life of the Sanyasin and the Yogi, but it was conceived entirely in an erroneous spirit. It evoked admiration by reason of self-abnegation. The time has now arrived when the study of those who lived before us have impressed upon us the necessity of living the worldly life as it exists in as full a measure as we may hope to live beyond. What awaits us in the land from which no traveller has yet returned must be to a very great extent a matter of personal belief. In short, Mahatmaji, of all others, Lokamanya Tilak next—lived his life to teach us, as one American biographer of Mahatmaji said, "Religion must mean to every one of us as it means to me, conscience in action". Every one of us must not only possess conscience but that it must act and reflect itself on every single occasion of our life.

Life is Action

During a year at our disposal, when we were for a

short time more or less living a life of contemplation, among the books that we read was the great work that the late Lokmanya Tilak wrote during the six years of his imprisonment, the commentary on the Bhagwad Gita. One thing in it which he attempted to prove and which Mahatmaji has taken for granted is that the life here does not mean a life of mere contemplation, so that you may evolve for yourself, for your soul, a greatness, the greatness of the soul, but that life here means a life so lived and so acted as to mitigate the inequalities of human life, so that you would have given your account when you appear before God that you used the faculties which he gave you not merely by improving yourself but by leaving the world better than you found it. And mind you, it is not merely a matter of genius or greatness that is necessary in order to live that life of usefulness and to truly serve your God while you live and while you have departed from this life. Not even the humblest of us are denied those opportunities if we only make up our minds as to the life to which we shall dedicate ourselves. The very inequalities of human life are so created as to serve the purposes in the life of every man. How many of us ever ask ourselves at the end of the day when our normal activities for the purposes of struggle for existence are over whether we have not a few more hours, if not at all events a few more moments, to serve another man, if only it were a single other man? If that spirit of service was very common and was ultimately made universal in this land, we should not find any difficulty in giving our account both to our God and to our fellowmen. Most of us have some-how or other lived and begun to live the life of faithful submission to circumstances, a submission which has submerged the human activities of every single man, woman and child. It is time that you realise that you are not born to live the life of cattle, to live your day so that you may eat, and just to eat so that the night may pass and to begin the daily round of work

over again; for after all when you have time you still have energy if only you have faith in yourself and in the necessity of work for your fellow-men. Mahatma Gandhi may work for 330 millions, smaller men may work for smaller groups, and it is not denied to every single man or woman to work at least in the very narrow sphere in which he or she is born.

Serve Thy Neighbour

Addressing myself to the young men and young women of Madras, may I ask each of them a question? Whether they are students at school or whether they are students at college, has it ever occurred to them that at the end of the day they should appoint themselves their own taskmasters? Has it occurred to them that after an hour of fresh air on the Beach, they shall spend another hour in the slums of poor men and poor women so that their lot may become a little better than what it is to-day, that they shall spend an hour with people who believe that their lives are hardly worth living except merely to crawl into their hut and to crawl out of it? Has it ever occurred to them that the poor in the country are waiting for the smallest service that the richest among us can render? Therefore service is not reserved for the great; service is not reserved for the select few; service is intended for every single one of us who has the faith and the spirit of self-sacrifice. In fact even self-sacrifice is not demanded. For you have simply to steal an hour from the time which you otherwise spend doing nothing. I appeal to all of you in the name of the great dead to dedicate that hour which you otherwise spend in talking, sitting down not knowing how to spend it, sitting down perhaps with your friend or sitting down in a melancholy state brooding over the unfortunate condition of our land, and to pool all your resources to the service of the poor. It is that spirit of service for which I have to-night undertaken to speak to you.

Why do we admire our dead? Many a rich man has died in this city before; many multi-millionaires have died. Probably their children in a spirit of cynicism were only awaiting their death in order that they may enjoy the wealth which was left behind Have you heard of them? They died as poor in spiritual possession as they were rich in worldly possession. Why do we rememeber Mr. Sen Gupta? Why do we remember Deshabandhu Das, why do we remember Lokamanya Tilak, why do we remember Lala Lajpat Rai and why do we remember Swami Shardhanand? I ask you to ask yourself the question. Why is it necessary in a country like this to name a few individuals in order that you may wake up to your sense of duty only on the day of their death? You begin to think that while there was time, you might have earned, if not in the eye of your fellowmen, at least in a more modest and self-effacing way, the merit from God and man, the same merit which they have left behind them. Let every one of us consecrate, at all events that part of our life which we do not need for the daily toil of our existence to the service of our fellowmen, and you may be quite certain that the position of India will be entirely altered; it will then be a land which it deserves to be, for often we have been told that it did not matter to us how we lived and under whose dominion and under subjection.

India's Mission in World

Dr. Tagore is not tired of telling us that we have a mission for the world. Let me hope and believe that we have a mission for the world. But to-day we are an example before the world of which neither we nor the world can be really proud. We are a race of men destined to great purposes, but our missions have not been fulfilled on account of our own inaction. I am here to call upon you in the name of the memory of our friend, the late Mr. Sen-Gupta, not because he was a great lawyer, not because

he was a great statesman, but because he was a great man, a great soul to fulfil that mission. What is a great soul? Why have you acclaimed spontaneously.

"Mahatma", that great soul, that great servant who is still among us, why have you given him that name? You must have meant something by it. You would have not called any other a "Mahatma". Even if I went about canvassing votes, I won't get it. But the sub-conscious corner in your heart made you feel and think by his presence and by his work that there is in him the great soul that stirs you to action, righteousness and truth. That is the true mission that India has for the world. The first basis for such a mission is that we must think, live, contemplate and evolve as free men, for I have yet to see a really great soul except in the person of the great Mahatmaji who can rise above the feeling of subjection that is in each of us, and yet evolve in his great soul an example for the world. It is sad to contemplate that with a Mahatma among us, who, had he lived in any other country would not only have raised it from a position of serfdom to a position of liberty but to a position of World Teacher, that even with such a Mahatma among us we are unable to live up to the great example that he sets by his every day living. Why is it that you in your millions gather together when he comes, to hear his message? If you do so merely as a matter, as we used to do in the remote past, of bare expiation, of bare purification by a mere Darshan, I am afraid that you are mistaken in your objective. Your objective will only be served by faithfully following his example, by doing the work that God has placed before you, in a spirit of humility and self-effacement. Why is it that a country like this which boasted of a school in every Brahmin's house and in every temple has perhaps to-day the smallest literate population in the world.

Unemployment Problem

Why is it that every young man, every graduate complains of want of employment? I am quite certain that

if every one of those youngmen inspired by a feeling of true mission in life, not troubling himself as to how great the other great ones are, bury themselves in a few villages of the remotest taluqa and give the best that is in them, physically, morally and intellectually, I feel quite certain that we need no measure even like free and compulsory primary education. Why cannot we, even in the condition in which we are to-day, educate the children of our own men and women in every single part of every single province? Inheriting the most ancient civilisation in the world as we do, why is it that we are the most illiterate people in the world? Have we not enough young men educated sufficiently to be able to teach in primary schools? It is because our young men and women have not yet been inspired to a true mission of the noblest kind because it is the humblest work which they have got to do. If only these men go out to the villages instead of crowding into cities, large or small, and make their homes in the villages, I have not the least doubt that notwithstanding the adverse conditions, we shall develop in a manner that will give us an agreeable surprise. For every time that I go back to my homeland, one young man or other comes to me and tells me "there is not even a school maintained within this area, would you not subscribe a small sum to start a school?" I always tell them that even if I subscribed that would not make it possible unless the young men themselves feel that no national service is small enough for a man. Just consider what a primary school would cost you if only you have an affection for it. As for your own living, you may be quite certain that there is enough gratitude in this land to appreciate voluntary service and the advantages of knowledge. India is sufficiently developed to appreciate such men.

Voluntary Service

What we want is voluntary service, voluntary sacrifice to build up India. With such men and women, we would create

a strength and an opportunity which so far as freedom goes will be merely a matter of time. But I am not here to talk of that. I am here to talk of the service which you can render in every single condition of life to your fellowmen, for there can be no benefit without service. What is the good of anyone of us appearing before you and asking to be accepted as a leader unless we can say "I want you to accept me as a leader because I leave my life here at your disposal for such work as my capacity can fit me to render for the purposes of our national life." It is this spirit which at one time was the spirit of Indian civilisation ; for mutual education, mutual support and mutual advantages of knowledge were the order of the day. We have now fallen away from that great ideal. We now live individually and each one for ourselves, and it is that that has brought about the great deterioration in our political as well as social life which is responsible for our condition to-day. Otherwise why should one Indian stand in a different platform from another ? With that spirit of humility let us all pray that God may grant us that spirit of service for which alone we have met here to-night to commemorate the great one that is dead, but whose spirit will survive only if those whom he left behind follow his example and dedicate their time for similar service. If the work is done in that spirit, the world will soon see a great nation rising to the height which it deserves. And in that spirit let us all pray—whether we are Hindus, Mussalmans or Christians, for after all we are the children of the same Maker, let us all rise as one man and pray that MAY GOD GRANT PEACE TO THE DEPARTED SOUL.

"VINDICATE THE NAME OF OUR MOTHERLAND"

Bezwada 23rd July 1934.

I am one of those who feel it their duty, and more than their duty, their privilege, to congratulate the Andhradesha on the contribution it has made during the course

f the last great struggle for freedom, and it is not a ere matter of formal words, of congratulation or felicition, but because we stand at a period of time when it up to us to take an estimate of what we have left :hind and of what we are going forward to.

Prudent Child !

For there are some at least among our opponents 1o are not content merely with saying that Congress has rned a prudent child, but there are many also among em who claim that during the last struggle the Congress s suffered a defeat. If it were merely a matter of ring them the pleasure of an acknowledgement, I have t the least degree of hesitation in allowing them to lay at flattering unction to themselves and to their souls, : it is not for them that we are struggling. It is not : them that we are forging our policy. It is for rselves and entirely for ourselves, to take advice unto rselves as to what is the proper course that the country ıst follow from time to time until its objective of freedom attained.

At all events, I am one of those who did not go o the struggle like a young boy of emotion. I am not e of those against whom a charge could be levelled .t he did not understand his business. I am not one those against whom an accusation can be made that he l not fully understand the implications of the law. It for that reason that I stand before you to-night to ıgratulate you on your contribution to that struggle.

Let me now begin with the history of the Congress :ing the last fifteen years. It is not, that prior to that .e the Congress did not raise aloft the banner of freen as a matter of future objective to be realised in the lness of time under merciful Providence. Perhaps that s a genuine reaction having regard to the historical ante-

cedents of some hundred years of subjection, but a new chapter has been opened during the last fifteen years of the history of the Congress when it made freedom its minimum and direct objective. And undoubtedly a great deal of the rousing of national consciousness is to be attributed perhaps to one man among others, and that is Mahatma Gandhi and Mahatma Gandhi alone.

Freedom's Struggle

The consciousness began to be expressed coincidently with the struggle for freedom, at all events in the name of freedom, that was waged as a war of force on the other side of the world; and yet we are told that during the course of our struggle for freedom the lives of students were ruined, their prospects shattered, business injured. That was the advice which undoubtedly our friendly opponents were giving to the patriots who were in the midst of the struggle.

I have often asked them whether when it came to a question of the freedom of their land they ever counted on the cost of their freedom. What happened to the students of schools, colleges and universities in the countries that were engaged in the great struggle for freedom as between two free nations between the Allies and their opponents during the Great War of 1914-18? What happened to their commerce, what happened to their business and what happned to the sacrifice of accumulated wealth of a country in the name of preservation of freedom? It did not occur to them then to ask these questions.

In fact those who dared to ask those questions were regarded only as traitors to their land and as those who did not deserve freedom. That was the view that people who loved freedom for themselves expressed in their life and conduct. Unfortunately for ourselves, the view that the same people, as governing and dominating this country and exploiting this country put forward was entirely different.

causes and means which they examined were not the means open to a subject race to attain freedom. What boots it to us, they say, that we correctly understand and appreciate how England obtained freedom against their own rulers, from their Feudal Lords and from their Kings? What boots it to us that France obtained freedom by a Revolution? What boots it to us, that America by a cry of "No tax" attained freedom by only a signal, by only an indication, by the act of throwing a single chest of tea into the Boston harbour? And yet we are told that a similar act of opposing the law as a matter of vindication of the right of man to freedom, so that the attention of our own countrymen who oppose us might be drawn to the subject condition, is not open to us. We dared to do it in a manner which perhaps has secured to-day the attention of the world. We have dared to back it not by a war of force but by a non-violent struggle, by group sacrifice and by the truth and sincerity of our demand.

Sacrifices

During the course of that struggle, we dared to suffer without retaliation, we dared to suffer and live by principles by which war has not hitherto been waged. To those defeatists, to those faint-hearted friends, I have only to present the history of India during the last fifteen years to prove that we have passed the stage of ridicule and contempt, and that if we could muster in the year 1930-31, 150,000 men, women and children, we could muster to-day at least a lac and to that lac must be added, according to the Year Book published by the Government of India, a million who could not be arrested because if they were arrested it had to be acknowledged that the country had entered upon the strenuous struggle determined to win freedom.

Those who struggled in it, as you all know, suffered great losses of property, liberty and above all that honour that you always maintained and the value of which you

were prepared to substantiate by that struggle into which you dared to venture notwithstanding the faint hearted advice. We have now passed into the struggle of opposition and a real joining of forces. That is the next phase into which we have come, but you must remember that in all these struggles, whether they be wars of force or non-violent struggles, so far as the mass mind, so far as the mass strength, mass alliance is concerned, there is always a limit to its resources, both emotional and material, and that during the course of such a struggle there arises a time when you have for the time being to reconsider your position in order that the mass in its larger measure may be behind you. I am not one of those who believe that such a situation demands or justifies either criticism or the belief that the last struggle has been a failure. To my mind, I say this in order that you may understand its true purpose, its future course, its future possibilities, its future potentialities, the moral gain of the last struggle is the surest gain of all. When once the slave mind throws off its inertia, when it attains that stage, the next struggle will perhaps be the easier if not the easiest.

Moral of Last Struggle

The great moral of the last struggle has been the great moral assertion, the great vindication that in a fight against the spirit all material forces become inoperative. That is the history of the last struggle, that is the short history which it is necessary for every Indian man, woman and child to remember so that we may not fall into another fallacy which friends are propagating day in and day out: "Here is the defeated Congress once more come back in order to get into touch with its own men and women." All I can say is if we failed to the extent to which we were not able to exert sufficient pressure, it is not the fault of the instrument, but the fault of those who took part in it, because to a certain extent, having regard to the newness not the experiment, having regard to the freshness of the

experiment, and by reason of the long period of subjection, perhaps the support was not such as the struggle deserved and as the time demanded, and therefore it is we who failed Mahatma Gandhi and not Mahatma Gandhi who failed us.

If therefore under the circumstances that have arisen he tells us what the next course open to us is, we need not take it either as a criticism of ourselves, either individually or by groups; for I well remember at Patna when he issued the letter suspending Civil Disobedience, many an individual was taken perhaps to a certain extent by a feeling of shock, and told himself or his friends that it was a blunder to have taken that step, and that it implied a criticism of our action. We were pledged to a form of struggle of surrendering our property, and sacrificing everything that was so dear to ourselves. All honour to those who fought in that struggle. In struggles of this kind, history testifies to the fact that those who take part in the first stage of the struggle need look forward to no other result than moral victory.

Position Explained

History has never shown that you can expect by a miracle or a trick to win the struggle for freedom at the very first attempt. It is for that reason that I have placed before you the situation in which I stand before you as one of the General Secretaries of the Congress Parliamentary Board constituted by the All-India Congress Committee of the Indian National Congress in my official capacity, in order that I may enlist your sympathy and support in the new task which lies before us. We come to you in no faint-hearted spirit, either personally or in a group; we come to you in the knowledge that you still believe in the Indian National Congress, and that you shall cast your vote unbiassed by personal influences, unbiassed by personal corruptions, unbiassed by party groups, uninfluenced by divisions which

it has been the objective of our enemy to spread throughout this land; for after all I have yet to hear in political science of a thing like the separate electorate. It was all a device in order that two great communities professing only different faiths, but otherwise having common political and economic interests, racial sympathy and culture, may yet be divided by the mere fact that they hope to reach the same God by two different ways.

Justice Party

Not content with this device, our enemies have found other forms of division in this part of the country. They have found ready assistance, and ready support from those who call themselves by two sacred names "Justice" and "Self-Respect". Justice indeed! Justice for whom! If they mean justice for themselves, then that is a different proposition. If they mean justice for one section only that is a very different proposition and yet by that sacred name they attempt to distinguish themselves to serve a selfish cause and to divide the country that is and must remain one.

The other one I was told was "Self-respect." I thought that a subject race had no self-respect left in them except perhaps in the fight for freedom. Fancy two slaves asserting self-respect against each other while maintaining their subjection and domination by a third party!

There is yet another, and that is the one for which we are all responsible and for which Hinduism is now paying its penance under the guidance of Mahatma Gandhi. Whoever thought that because an Indian was born with a particular name attached to his community that it thereby distinguished him from another Indian who had all other interests in common with him? And yet I was told that there was a cry of Brahmins and non-Brahmins, and in order that that division might be great enough they had

to divide it by some form of logic. Otherwise you could not set one Indian against another.

Allow me to tell you this, that this division of Brahmins and non-Brahmins is the fault of a meagre knowledge of the Hindu Shastras. This division in the Hindu society has been allowed to develop itself entirely on wrong lines. I am one of those who believe that it is only the solidarity of the Hindu faith and the Hindu Society that will put you in the position which you deserve as perhaps the most civilised community in the world. But so long as you continue to label yourself, allow yourself to be divided politically and socially, it will be your own fault if the opponent uses it to serve his own ends, and to maintain the subjection and domination. Undoubtedly in a country like this, hundred and thousands of men can be found to serve the opponents, perhaps until the last day of our subjection. Absolute unanimity nobody can expect.

Colonial Conquest

In fact, I have been told by many Englishmen that even their own free country was being governed by an unstable minority of 30 or 40, and if unanimity was a measure of the right to freedom, England ought to forfeit it.

Let us not forget that the partition of Africa and the division of Asia was made by western races, not for the propagation of knowledge or as a trust, not with a desire that the less civilised may rise to a higher civilisation that led to freedom, but that it was made purely as a matter of acquiring property both in men and land. That is the prime purpose with which the western world divided a great deal of Africa and Asia, barring the extreme east, and there it was only mutual jealousy which prevented them. Let us remember that historical truth. But for us the struggle is not for acquiring another's land.

The Hindu society having unnaturally allowed itself to

be divided on an entirely fallacious basis, it is for them now to have complete solidarity. It is for us, by our own resolution, by our own good sense and purity to get rid of this evil. That is what Mahatma Gandhi has been doing during the last one year, and now that the year is coming to a close well-nigh within a week, may we all join, not merely with a prayer of words but with a prayer of conviction and conduct, join with him in the surrender to God.

Two Plain Issues

There are two issues which I want to put before you to-day. The first issue is whether the policy of the Government by which they have suppressed by force the struggle for freedom on the part of Indian men and women was a just measure in the interests as they pretended, of law and order. To that we want an answer from the Indian people at large. If they believe that we were rightly suppressed, I shall have no objection to their accepting the voluntary subjection of other countries. But those who have sufficient manhood left in them, those who feel that we have asserted and indeed deserved to assert and will continue to assert our right to freedom, their place and their votes are with us. That is the first issue.

Of course, if you ask the candidate who oppose the Congress, who is not with the nation, he will make many excuses, he will tell you that we are socialists, he will probably tell you that we are reformers. But the only real answer that he can give, but which he dare not give, is that directly or indirectly he wishes to support the Government in any future measure for your suppression. Therefore if such a candidate, by whatever name he honours himself, by whatever title he is distinguished, whatever influence he exercises, appears before you remember that he is not your man. He only is your man who is with the Congress. Any other, who labels himself, either as a Non-Brahminite, a Sanatanist, a Justicite or any other 'ite' is not your man.

For you there is only one 'ite' and that is the Congressite. There is only one label that this country can be proud of and that is the label of the Indian National Congress. And we ask for your vote for a very good reason. We ask for it not merely for moral support. We never had any doubt of getting your moral support. The Government now claim that you yourselves have become willing parties to your own subjection which they wish to maintain, and Mahatma Gandhi claimed at the second Round Table Conference that he represented every single section of the Indian nation notwithstanding the hundred and odd voices that were created by Sir Samuel Hoare and his friends. It is to vindicate that claim that we stand before you to-day in order that you may assert yourselves and show that no persuasion and no corruption can prevent you from doing the right thing.

FREEDOM CANNOT BE WON BY ARGUMENTS

Vizagapatam, 24th July, 1934.

I suppose that most of you have studied Indian history, at all events all histories, as the one subject of study still left in almost all the universities at the Entrance Examination is history. I wonder what you have learnt from Indian history. I can tell you what I did. I learnt a few isolated facts of the earlier kings of India, the inroad of the Moghuls followed by that long line of succession of Governors, Governors-General and Viceroys up to the period of my examination. That is what I learnt of Indian history.

Reason Why

The reason why I prefer to be an agitator is that I have yet to teach you what Indian history is. Both on account of my age, and the fact that my earlier profession was that of a teacher, I have a right, at all events without

any impertinence, to tell you what the true Indian history is. I am an agitator for this purpose. By reason of the exploitation of our condition of subjection, we had arrived at a stage of mind, a little earlier than 15 years ago, when it was impossible to consider anything else but the blessings and security provided by Pax Britannica. That is more or less what we were taught, and that is the school in which I grew up. If India exists merely in order that her children may be bled to the last drop they possess in order that there may be an efficient administration in this country, we may as well submit to an immediate destruction of ourselves. If I did not believe that we still have a future, I would have preferred that as a genuine and real consummation. For on examining the history of the world, I have asked myself the question, Rome has gone, Greece has gone, Egypt has gone, Assyria has gone, why is it that Indian civilisation, perhaps the most ancient civilisation of all, continues to survive? We are often asked whether the work, whether the struggle we are putting forward is worth the price that we are paying for it. If that is the faith that we are to live in order that we may exist for the benefiit of others, I think that it is an existence of which, at all events, I am not very proud, and I ask you to be ashamed of it. Having accepted subjection as a part of our destined faith, we seem to continue in a feeling of resignation, in a feeling of almost stagnation, where the mind refuses to work except merely to exist for the daily routine of life. If that is the single purpose for which we live, if we live merely to divide what is left, after the best part of what is taken from you has been royally spent without your having any voice in the spending, if our purpose is what old Dadabhoy Naoroji used to tell us and which I then did not understand to be the hewers of wood and drawers of water in a more insidious form than the primitive civilisation in which we might have lived, then I think that the Indian nation has lived in vain and would have lived in vain. It is up to us to consider the ways and means of so ordaining our existence that it may

be worth while to live. It is a question which I addressed myself times without number.

Born an Agriculturist

With men like Sir S. Radhakrishnan and Sir C. V. Raman, among us I dare not say that you are lacking in intellectual equipment. I am a man of the street, I was born a poor agriculturist and had to walk 5 miles to school at the age of 7 with a view to learn the rudiments of Gujarati characters. Therefore I am of the people, I belong to the people and I understand them and it is through them, for them and with them that my thoughts always turn. If only I can rouse your mind, lift your mind out of the daily struggle for existence, out of small questions, perhaps you would have and I would have to a certain extent met for a common useful purpose. The fundamental thing that every Indian should learn is to realise the value of freedom for itself, for without freedom there cannot be manhood and without manhood there cannot be an existence worth the name.

That brings me to the history of India during the last 15 years. Perhaps most of you are aware how freedom was valued between the Allies and those who fought. Their children from schools and colleges, workers and labourers, their shopmen, their administrators, their politicians and their professors in addition to that machine which is maintained for the purpose as a standing army joined in the struggle in the name of liberty. Perhaps some of you might remember that Mr. Lloyd George when he made his last appeal in the last Great War told them only one sentence. "How would you like if Germans were to rule in London?" Has it every occurred to you to ask yourself, have you been men enough to ask yourself a similar question? I consider education having failed of its purpose if you have never asked yourself this question. That is the way they value their freedom. They sent their last man, their last adult boy to

the front. Did they then stop to think "What will happen to our College students ?" Still it is they who during the last non-violent struggle for freedom who propagated the one idea "Please do not disturb our boy." That was the lesson that you were taught and that is the lesson which history denies and to which the lie is given by every freedom-loving nation. Our merchants were told "Oh, such a struggle is going to spoil your business."

Inferiority Complex

So do I ask a similar question "For what purpose did the British incur a debt equal to the accumulated wealth of a century and which perhaps she is attempting yet to settle with America?" They never asked what happened to the careers of their men and boys. Surely what is virtue in them is virtue in us, unless you belong to a different and lower scale of human beings. If the European races had to pay the price which I have described to you in ten million dead and wounded, if that is the price which free people have to pay to maintain their freedom, what is the price that a subject people may have to pay in order to attain freedom? That is the question which I am going to ask you, because we have hitherto been so faint-hearted, so thoughtless, so disregarding of the true situation, that we always believed and imagined that by some sort of magical argument, or discussion, our country, our property and our manhood are going to be returned to us as free gift. They are going to keep it until the last ounce of struggle. And it is only natural, and I can understand the motives, however low, of those Englishmen who from patriotic motives are in every single form creating an inferiority complex among us, creating division among us and saying that we are unfit to govern ourselves in order that they may govern us.

Unfortunately I cannot say that of those of our countrymen who assist them in the nefarious task. They do not deserve

to entrench themselves behind the name, the sacred name of the word "duty". When I was in jail, every single Indian official I met used to tell me "Oh Mr. Desai, we really are extremely sorry; this is not your place; how can we shut you up in a cell of 13 ft. × 5 ft? But pardon me I am only doing my duty." For many days I endured it. One day I began to discuss with one of them. I asked him "Have you analysed what you mean by "duty"? If you mean by "duty" what you have undertaken, if you call that "duty" then "duty" has to have an entirely different meaning, both in life and conduct from what it actually has." Many a man, I know, runs away with the idea that he is doing his duty when he is earning his daily salary out of every pie which you and I and the poorest man contributes in order only that the subjection of our race may be the better maintained. That is the duty in the sacred name of which this work is being done. However I leave them to their own judgment, for to me they are as much brothers as you.

No Argument Here

We have lived to understand that freedom cannot be won by intellectual arguments. That is the great difference that the Indian politics of the last 15 years has made under the guidance of the greatest soul force that the world has ever known, Mahatma Gandhi, and that is the difference which every man and woman should learn as the most elementary lesson.

Before I come to the immediate purpose, I congratulate and I congratulate with a sympathetic mind, with a sympathetic heart every man, woman and child who has suffered during the last Satyagraha struggle either in the loss of personal freedom or of property or otherwise; for they are men, they are women of true mettle, because you must remember that the first step in every struggle for freedom is always the

most difficult step. India has got out of its paralysis of mind, of its paralysis of feeling, of its paralysis of understanding, and we have learnt to live and will hereafter make every struggle to live as men deserve to live. That is the moral of the last struggle and it does not matter to me how it is assessed by His Excellency Lord Willingdon or by his smallest sergeant in the city. Let those of my countrymen who think that they have crushed the Congress, consider in the singleness of their thought what purpose they have served in the suppression of their country. But it is their own business and not mine. If they had conquered India for themselves, I would have bowed my head. For I would rather have an Indian king than a foreign king, but they are neither kings nor subjects. They are only the instruments of kings to dominate us. That is the purpose they serve, and all glory to them if they think that they have crushed the Congress.

Two Issues

I am not one of those who started with any ambitious idea of immediate achievement. I am not one of those who were moved into it with emotion, and it is with a deliberate purpose and design that I joined the Satyagraha movement, at the time I did, and the reason is this. In every struggle for freedom there has got to be a beginning, and the beginning is the most difficult though it is not necessarily fruitful. If in 1921 we were a hundred thousand, in 1931 we were at least a million, and would to God that if ever the time comes in the fullness of time, we shall not be a million but the whole of the 335 millions to a man, including our friends who maintain foreign domination over us. I make this appeal in a spirit of love. I make this appeal in a brotherly sense of what they owe to us and what we owe to them that in fullness of time there should be only one India.

We have chosen to fight this issue on two distinct

grounds, and those distinct grounds are such that if there is any the smallest self-respect or justice which are two names, I understand, of two self-serving parties in this part of the land by which they are known, that if there is the smallest self-respect or justice in any one of you, you will stand for those particular issues irrespective of the place you occupy in society, whether Brahmin or non-Brahmin, for I am one of those who believe that unless there is solidarity among us we deserve to remain in the low condition which is imposed upon us. When I read a speech, delivered only two days ago, by the gentlemen who represent Madras in the Assembly it grieved me as a Hindu to feel that religion might be made to serve, sub-serve, a disloyal and unpatriotic purpose. We are calling upon you now in the name of unity to pronounce your judgment on only two questions. We were suppressed physically during the last movement. There were what were called laws, passed initially by the Viceroy but later on by the several legislatures, and it is to be said to our shame that the persons who assisted in passing them were Indians, at all events by birth and colour. Whether by belief and interest they were Indians or not, at all events, I do not propose to own them as my own countrymen. That is how law is made and that is how the word "law" has been prostituted and degraded to serve a very mean and wrong purpose. I shall tell you what I understand by the word "law", and which I propounded the other day to the Bar at Trichinopoly. I will say it in terms that a layman can understand Law, in its true and noble sense, is a line of conduct laid down by the Sovereign, permitting or prohibiting to the subject acts for the purpose of subserving the highest good of the society. That is true law. Law, in its other sense is the law of the despot, which is the expression of the Sovereign-will which is laid down not for subserving, but for cutting down the subjects' rights and privileges for the purpose of maintaining power and domination. There is no limit of expression to the sovereign-will. The Executive Govern-

ment have been vested with powers under which, for reasons which need not be given, they may call upon any individual to take an order with his person as he may be required, and if he could not obey it he is liable to a sentence of two years' rigorous imprisonment. That is the law for which these mighty men stood in the name of law behind those Englishmen who strengthened their position and called themselves legislators and prostituted the name of law, calling a section of this kind 'law' and for the purposes of so-called preservation of law.

We did not retaliate. It is not our faith to retaliate. Whether we were physically suppressed, whether we were rightly suppressed, whether the Government won a victory, whether they acted rightly or wrongly, it is for you to say.

Stone for Bread

Some of us a short time after we took that great step when we began to realise that it is not merely by tinkering with a measure here and a measure there that India is going to advance, conceived an idea that we might ask for a Round Table Conference for the purpose of solving the problems. Those of us, or at all events those leaders who conceived that idea, are to be congratulated on it for the simple reason that they still believed that the Round Table Conference would be a genuine Round Table Conference, that is to say, a Conference of British representatives as well as the representatives of the Indian people. In place of that they called a Conference of a hundred and odd people selected by themselves. As a result of that Conference a constitution is about to be framed for the purpose of the future Government of India which is contained in the White Paper. If you believe that they give us a stone instead of bread then your vote is with me. If you think that you are now getting bread then you are not with me, because then you do not stand for freedom, and you do not deserve to get freedom.

WHY IS INDIA WHAT SHE IS TO-DAY?

It is not a mere formal expression of gratitude if I tell you that it gives me very great pleasure tonight to come in your midst, particulary as you belong to the University Union. For after finishing my college course, I began my life as a professor in a college. Since I gave up college life, I have always been in touch with University education as a member of the University Syndicate. It was under some unusual and difficult circumstances that I could not stand for election, not being free to do so, on the last occasion. I have not merely, therefore, a sort of living relationship with the student world, but I am one of those who believe—though the idea can easily be overdone—that the youth of the country is the only thing, after all, that matters, with its great future. I have always claimed, notwithstanding my grey hairs, that I am in spirit probably younger than most of you present here. But at the same time I am quite willing to concede that in the historical sense the future belongs to you, and in so far as any one of us, by long experience or learning, has got anything to convey to you, it is up to us that we should say so, not in the spirit of a teacher, which I do not and cannot claim to be, but in the spirit of handing on the accumulated experience of the past for the benefit of the future. It is only in that sense of historical continuity that I wish to tell you a few things tonight. I have given no name to the subject, for it bears no particular individual name. The only name that I can give is "My experience as a student of the past and as a student of the futuure." That is what I propose to speak to you about tonight, but let me warn you beforehand against any disappointment, as I am not an expert educationist. I am an expert historian still less. An expert economist I happened to be or at any rate claimed to be, some years back, but now I have ceased to be that also. There might have been many,

I am sure there have been, who have addressed you
in the true academical style, whether in literature
science, so let me speak to you as a common man
street, on the art of life, for it is that which matters
than anything else, except from the point of view
expert.

What Indian, History Means

As I have told you, you have heard many Uni
addresses. What have you been told at the end of it a
is that question that I ask myself at the end of an a
I do not believe and expect that all of you, many
for that matter, will agree with me, but it will gi
sufficient satisfaction if at the end of the address th
something that you should like to think over. If
gave you an idea which you would turn over in
minds, that is enough so far as I am concerned.

I am one of those who are trying to see what
history means; not the Indian history as Prof. Sarkar
have it, trying to solve the controversy as between S
and Afzalkhan, or Akbar's attitude towards religious
tions, trying to solve only a controversy which perha
not a part of the Indian history at all, either at
Universities or in the colleges, although at one tin
was a part of the subject.

The Indian history that I learnt consisted of a
chapters of what ancient India was, a few chapters o
mediaeval period in which nothing was given except pe
some descriptions or inscription of Asoka, coming
to the period where India was divided in the political
military sense, and to the time when during the last
150 years' succession of Governors-General and Vic
began. It is in that spirit of succession of the name
people who governed, either well or ill, it is in that
that history has been taught to me. I am only repro

ing for you or recreating for you the ancient history of India and it is unnecessary to recreate for you the history of India either during the Mohammedan rule or the shortlived Maharatta Emprie. I do not possess that memory which my friends the historians possess. They would be able to rehearse before you, I am sure, the long line of Viceroys, of the measures they passed, the wars they fought, and ultimately how India became what it is to-day. I wish to create for you the Indian history as I want it to be studied.

Why this present position?

The way in which I visualise Indian history is, and the question that I wish to propound to you is, what is it that accounts for the present position of India to-day? That is the question to which I do not demand an answer from you to-night, but it is undoubtedly a question which I want you to ask yourselves, not to-night, but as often as you think it your duty to do so. What is it that has reduced India to the position in which it is to-day? It is up to every detached mind studying Indian history to put that question. That is which requires solution, for on its true solution depends our future, near as well as remote. We should not solve the Indian problem by merely saying that we are the inheritors of the most ancient civilisation of the world. We would not solve the problem by saying to ourselves that our forefathers were carrying on the torch of learning when perhaps a considerable portion of the West had not yet learnt to clothe itself in decency, when perhaps the leaves and barks of trees were the only clothing they had.

The True Historical Lesson

It is that sort of feeling I remember that Dr. Besant created in many an audience in which I happened to be present. I had often thought to myself then, and now I ask you to ask yourselves, "What does it matter what our ancestors were, if we,

their descendants, are not worthy of their names?" And, therefore, it is that I have propounded to myself the question "Why is it that we are what we are to-day, and what is it that accounts for it?" I won't deal in any spirit of cynicism or bitterness with the political aspect of a matter which is already bitter enough, but I am going to examine the position of India of to-day in order that we may understand ourselves in the fullest sense of the term, and having so understood it will be up to our leaders in times to come so to continue to fashion our life, to mould our conduct and ideas, that we may deserve to be, as we claim to be, the true descendants and of a race of which you may justly be proud. It is that question to which many of my historian friends have not addressed themselves. It is probably not their fault. They study isolated ideas, they study isolated problems, they study isolated questions, great and important in themselves, occupying a great deal of intellectual attention, but leaving at the end of it all a mere feeling that they have learnt history but not the historical lesson; for history matters nothing if it is a mere question of succession of events of all times; history matters if only we are in a position to learn from it something that we may apply to the individual and corporate life of Indian people of to-day.

There are many among you who, I daresay, have already recieved prizes and medals in the study of the history of Western countries. I suppose you have read in English history of the process, by which, since the time of Magna Carta, England acquired the empire of which she boasts to-day. There are many here, I am sure, among you who have learnt and learnt probably better than I can ever hope to do, the causes of the French Revolution and how it affected Europe. There are many, I am certain, who have studied Roman history, beginning with the earliest democracy of the first Roman Republic, and there are many also who have doubtless studied the history of the Dutch Republic. But at the end of it all, after receiving all those prizes and medals, I ask, has it ever occurred to you to ask

yourselves the question: "Has the growth of liberty of England taught a single lesson that you wish to apply to your lives, has the French Revolution taught a lesson that you dare translate into action in your lives?" What do these prizes and medals matter, of what value are they, if after 150 years of University education, you cannot translate into action, you cannot apply to your own lives, the lesson these struggles for liberty have taught you? Have we applied a single lesson from all those struggles for freedom of the human mind? Have you ever attempted to examine the genesis of our situation to-day? If you have not, I regret to say the prizes that you have won are for nothing and do not matter at all.

Look at the Map of the World

I say in all humility that I am also one of those who acquired a great many prizes in my academic career, but it is only now that I am beginning to learn, and it is in that spirit of a new student that I am speaking to you to-night, so that you may not waste and divert your energies. I am addressing you tonight so that you may begin rightly, begin again and begin for the first time with all the freshness of energy and enthusiasm. Would you study English history merely in order that you might satisfy your curiosity as to how they attained their freedom? Would you study the French Revolution in order that you may admire Napoleon, or would you study history in the way in which I will now ask you to study?

I have recently been studying Geography and I looked at the map of the world only the other day—and that is the reason why I warn you that you must not expect, and you will be disappointed if you do so, any very great academic address: I want to talk to you as I would talk to myself if I were entering the first year of the college to-day, and it is in that spirit that I want you to follow me—I was looking at the map of the world only a short time ago. What did I see in it? What would you see if

you studied? I looked at Africa. I ask you, looking at the colours that every Atlas gives. "Does any part of that vast country belong to the people of Africa?" I asked myself another question. "Is there any part of that country that *remains* undivided between the races of the West?" I look further to the east. I begin to look at what at one time was the Turkish empire. It may not be an empire to the same extent now, but small though it may be, it is still an empire which can be proud of the narrow limits to which it has drawn itself in order only that it may sustain its original spirit and maintain its liberty. I look at the next country which was a Mandated territory under the Treaty of Versailles. I look at the next country which was nearly under the influence of the West, but which by the mercy of Providence, as a result of jealousy between the western races, escaped. I look at the next land, Afghanistan. I look at our own land, at Burma, Malaya and Java Islands which have been partitioned between the western races and further east up to China. I look also at the map of the frontiers of China, on the eastern side of what are called Concession ports and I come to Japan. I turn round and look at North and South America and that finishes my study of the map.

Peep into Past

What came over the world since the year 1815? So far as Africa is concerned, it has been parcelled out as the property of the western countries. What came over the world that we, one-fifth of the human race, have sold ourselves, body and soul and land as the property of the western races? As far as they are concerned, it stands to their credit. Undoubtedly they are entitled to be proud of the great empire they have built. But what about you and me who have become their property? They are rightly proud of the brightest Jewel in the British Crown. Have you found out the reasons for that change, the change that has taken place in your condition historically?

Three Dominations

Again I ask myself, and I ask you: Why is India what it is today? It is because of three dominations, two of which at least are entirely in our hands, if not all the three. They are, the domination of the Indian mind by its society, the domination of the Indian spirit by its present religion, and the domination of the people by the foreign races. That is the reaction which finds us in the condition in which we are to-day. It is not for the purpose of blaming those who have acquired that domination that I am narrating the simple facts of history, but it is for the purpose of making you approach life with some sense of reality. What boots it to us if you pass all the examinations and get out of the Universities with B. A., M. A., and other degrees, if only at the end of all that you have learnt, what I would call, a common stock of secular knowledge such as history, mathematics and science in order that you may comfortably settle yourself in some appointment that it is possible to get and that may fall to your lot? For, after all, what is the purpose of education? Is it only to acquire some part of knowledge, all the time ignoring the greatest aspect of knowledge that is, the art of life for yourself? Has that ever occurred to you? I quite agree that the first reaction of foreign rule is the sense of dumbness, a sense of resignation, a sense of almost willing submission, and it continued for a period of a hundred years notwithstanding our education. If freedom is a virtue, it cannot be a virtue for only a limited part of the human race? Why is freedom a virtue to be fought for so far as the West is concerned so that they may be men, so that they may be masters in their own countries, and why is it a crime in so far as India is concerned? For it was considered a crime during the last three years of history of this country when people who dared to fight for their liberty were punished, were thrown into prison, and the spirit of freedom was considered a crime and sought to be

suppressed as a crime. If freedom is a virtue, it is a virtue for all mankind.

Freedom has its own value

Why was the war of slavery fought in America? Was it fought in a spirit of Truth, in a spirit of righteousness? Why was the last war fought in Europe? Why did we give everything that we had in our power in order that the Allies may succeed? Because they all the time professed that they were fighting for the liberties of others and for the self-determination of the subject races of the world. Therefore, the first lesson that you have got to learn is this. They did not hesitate to make any amount of sacrifice to preserve their freedom. Millions were wounded and killed in that war, and you are perhaps aware that the wealth accumulated for over a century went into the air as bare exploded gun-powder. Why did men offer themselves? Why did they give all their resources? Because they truly loved freedom in the spirit in which their great poet, whom I admire, Byron spoke of freedom. We call ourselves educated, we recite those poems and get prizes for the recitation, but does it not occur to you that you must in your own lives begin to examine the lessons of literature and history?

It would really be futile to be taught anything in Universities and Colleges, where we spend lakhs and lakhs of rupees, to learn, not as parrots to recite what we have learnt, but as human beings and to put into practice what we have learnt. I am sure that if you truly love freedom, those very people who to-day want to suppress your spirit of freedom would admire you when you have achieved it, for I have not the slightest doubt in my mind that while there must necessarily be a clash between those who have acquired an empire, who naturally want to keep it, and those who want to win their freedom, they who truly love freedom and who try to with-hold it from you would be the

first to admire you if you only assert yourselves. Therefore the first and foremost lesson that you should learn is that freedom has its own value in and for itself in order that you might rank as men, and not for the gains it brings. It is a deficiency which ranks you down with those things which are lower than men. Freedom is not a mere matter of policies. Freedom is the single aspect of endowment which God has given to us.

" There are three kinds of domination as I have told you. Let us take the condition of the domination of the Indian mind by the social conditions into which it exists. What is the duty that you owe to yourself ? Are you going to allow yourself to be dominated in every aspect of your lives by the small, narrow, hard, rigid circle to which you happen to belong, or are you going to say that human society on such a basis is but a form of tyranny ? The human society which does not rank every single individual member of it as equal to another member is not a society that is based on genuine freedom, and you cannot deny— at least I do not deny—that every single effort that is made towards the cause of the enfranchisement of our minds from the domination of the society to which we belong does require our first consideration, for after all it touches every aspect of our lives. What is the good of your learned Vice-Chancellor conferring a degree upon you, if you do not go back and begin as men, each one of you saying to himself : "Henceforth I am going to take my share in the responsibility of freeing my society from the domination by which my society is kept down from its progress "?

The Harijan Movement

What is the great Harijan movement which is at present, to a very large extent, agitating the Indian world ? I do not wish to deal with the narrower controversial aspect of the subject which undoubtedly predominates in every society.

What is it that the priest-hood of every country does after the spirit of religion has gone out of the ceremonial? When I was young, I read a book of Carlyle which was prescribed as a text-book for the degree of the Master of Arts. All that I remember now is enough to enable me to bring to your notice the great lesson that he taught. The one lesson that he attempts to teach is this. Every form of religion or religious ritual once it has lost its original appeal to the true spirit loses its significance and it becomes a matter of routine. It is the spirit of it which matters.

The next thing is, that the priest, by reason of his ability, influence and learning, the position he occupies in society and last but not the least by reason of his vested interest, predominates the human mind. Perhaps you are aware, whether you belong to Hinduism, Islam or Christianity, what respect is demanded as a matter of right by every man who puts on the robes of a priest. It is because our minds have become mechanically subject to the *form* of religion and have lost the appreciation of its true spirit, its true purpose of elevation of the soul, and its true and genuine salvation. That is what, in my opinion, and that is how I ask you to look at it, has brought the Harijan movement among us. I am only giving an illustration. In fact, it is being used even for political purposes to day. I never thought that God created religion in order that man may exploit it for political purposes. That is the true position of India to-day. That is the true analysis of ourselves, and it is only if we analyse it in that way that we will realise the fundamental unity on which we ought to stand.

After having told you of the domination of society, I have told you of the domination of religious aspects. It is not religion. It is but the shadow of religion, for after all, a church is not a church, a temple is not a temple, a mosque is not a mosque, unless it teaches you the purest form of Faith to reach your God in your own way. It

is not to be used for mundane secular, narrow and lower purposes.

Is not India a Nation ?

If you fight the first two dominations, I have not the least doubt that the third will be nearer achievement. If you begin to realise that your society should be based on such a broad basis that it shall recognise no barrier between man and man, I am quite certain that freedom in the political sense is a mere matter of effort and time. And here I must bring you again to the map of the world with which I began. When I was travelling in Europe, lecturing in France, Switzerland and England, I was frequently asked this question. "How can India acquire any title for freedom, because India is not a nation—I will use the expression which is frequently used—it is a conglomeration of heterogeneous people divided by all sorts of ideas which they call religion, speaking numerous languages ?" That is what I am told what India is. That is why it does not deserve freedom. I began to ask myself "Could it be really as bad as that, notwithstanding the degraded condition, the lower condition, to which we have voluntarily fallen by allowing ourselves to be dominated in the manner I have pointed out" ?

Sometime ago, in order to be able to answer the question, I told myself looking at the map of the world, "Let me see the democracy that the world admits to be the greatest, the United States of America, the one state which dared to stand against the combined strength of the world. Is there any state on earth which has not a citizen there, is not there a German, an Englishman, an Italian, a Philippine, Japanese and many other races that I can name, except ourselves, for we are international, so far as our country is concerned. We belong to all but nothing belongs to us, not even our own country. That is the United States of America, that is the United States that fought on the side of the Allies in the last war. I told

myself that in whatever way my opponent may look at it—it is to his interest that he should make much of these things—with this illustration before me, he cannot say that we are not a nation on this ground. At least it gives me hope.

The Great Aryan Civilisation

If you carefully study the map of India, from Peshawar down to the southernmost coast of India, you will find at least one common form of civilisation, the great Aryan civilisation. The name of which Hitler is proud to-day is the name that belongs to us. The Swastika belongs to us, and yet where do we stand as a nation? Wherever I go in India I find a single form of life and thought. I venture to tell you that it is up to you to realise that you are far nearer each other than many of the western races, notwithstanding the vast expanse of your country and notwithstanding the fact that you are one-fifth of the entire human-race. You have both intellectual and moral equipment, and if you only knew what you were, you would not be what you are.

The next question that I ask myself is "What does it matter if we have several languages?" I went to a small country called Switzerland, so small that you can traverse the whole country in a few hours. In its Parliament there are three languages used today, Italian, German and French. And yet it is perhaps as small nations go, one of the most cultured and powerful nations in the world. That is the only nation that dared stand neutral in the midst of the greatest conflagration that the world has ever seen. There the number of languages does not matter, at least so far as the making of a nation goes.

Then I was asked about religion. I was asked this question at Oxford. Fortunately for me, I was standing in the place where John Ridley was burnt by reason of his

daring to profess his Faith. There is a memorial there. Did England deserve freedom the less because the Catholics and Protestants burnt each other when they quarrelled about religion? And yet this is said to be the greatest impediment in the way of India claiming to be a single nation!

Our Opponents' Business

But it is our opponents' business to magnify our differences. In fact, the Editor of the London *Times* had to naively admit to me that in the normality of things, when each time a riot took place in a small place, it was promptly telegraphed to London in order that the paper may come out with big headlines of our differences. Matter of religion! Do you know how many religions there are in Japan, a country not bigger, probably, than Gujerat? There are at least three religions there, and who dare say that it is not a political unit entitled to all honour that a united nation deserves at the hands of the world? If we are what we are, we do not deserve to be respected. But we want to be respected. So it seems to me that religion as a matter of dividing line between you and other men, as a matter of dividing line in politics, is a little overdone in this country, not because of its reality, but because we allowed ourselves to be persuaded falsely.

Christianity is divided into hundreds of sects. Has it come in the way of freedom of Christian nations of Europe? Did the Protestants and Roman Catholics refuse to fight side by side when it came to a question of freedom of their own countries? Let us clearly understand that by the domination of religion in the lower sense of the term, we allowed ourselves to get into this state of mind. It is up to us to think a little more freely for unless we think a little more freely, unless we stand united, we will not be respected.

What did Mr. Baldwin say, what did Mr. Ramsay

MacDonald say when our great and honoured friends went there? 'We are sorry, gentlemen, we are quite willing to give you all you want, but you do not seem to agree among yourselves." Whose fault is it that we do not agree? There must be something radically wrong in us if we cannot agree about a thing that we all desire. It is for you to answer that question during the remaining life that God has given you as a trust. We have among us men of the highest intellect, and yet we are told as if we were school boys "Oh what can we do, you do not agree among yourselves, you are not politicians, you are not statesmen and you do not understand freedom."

We want only what is Ours

We do not want other people's lands. We only want what is ours and what is due to us. It was said to be a trust some years ago. Now it has ceased to be a trust. It has now become a matter of struggle. Therefore, it is in your own hands to take it if you can, and you are asked to take it in a manner that the world has yet to learn. That is the only solution for us. A war of force is only a vicious circle, the vanquished only waiting to become powerful enough to fight again. Do you want any illustration from history for it? Are you so unintelligent, so ignorant of what is happening in the world to-day? Does it not strike you that a war of force must necessarily be, even though it is fought for a most sacred cause, a vicious circle? There are many eminent scientists to-day who are really afraid that the advancement of science, the purpose for which it is put to use, will bring about the destruction of the world. Some day a solution must be reached of this problem of force for the purpose of solving the differences between man and man, country and country, race and race, for you may be certain that the most militant man does not generally love his job. He does it because he believes that he must do it for his country's sake.

Chronic Individualism

But a war of force is needed only for aggression. You need no war of force because all that you have to do is to dare to assert your right for freedom and banish away all ideas by means of which you divide yourself. You will laugh at yourselves if you give some thought to it, but let me tell you that every day, it seems to me, the idea of individualism seems to become more and more powerful in our country, in fact, more powerful than in most of the powerful free countries. I ask myself, "What really is the psychological cause?" Every man says, "I am independent", and the result is, as the proverb goes, where there are twelve men, there are thirteen opinions, and what is more, none of them can agree. When the time for concerted action comes, every one says, "I am going to form my own party, please excuse me, I really cannot do anything, I am very sorry." What is it? Is it not the case of two slaves fighting with each other for something trivial and allowing themselves to be dominated by a third party? I want you to provide an answer. That is the fundamental analysis of the Indian situation to-day.

Remove the Domination

The other day I read a book on the problems of the East—I want each of you to read it—written by Sir Federick Whyte, who came out here as the first President of the Legislative Assembly. In it he asks why the Indian people are in such a hurry when only 15 years ago they dared assert—the idea that they are entitled to freedom? All they asked till then was "Please mitigate this evil, please mitigate that evil, please relax the Arms Act, please reduce the income-tax and please introduce a few more Indians into the service." As I said in another place, I still remember the time when the late Dadabhoy Naroji succeeded in getting a resolution passed in the House of

Commons to hold simultaneous examinations for admission into the Indian Civil Service, there was not a single town in this country where the people did not pass a vote of thanks and congratulation on that achievement. I am illustrating this, not with a view to minimise the great work of our forebears, but in order only to impress upon you that we have lived through a period when we were parties to a willing submission, to the continuation of foreign rule. My only request to you is that you should learn to remove that domination which now exists, and that you must fight so that you may restore your freedom in society, you must fight in order that you may restore genuine faith, you must fight in order that you may be equals with free men. Begin doing it as early as you can and make it a part of your religion, a part of your duty.

The Future is with you

I am addressing you as men who have the future in your hands, as women who have—thanks to the present upheaval in India, women have begun to take an equal part in our struggle for freedom—and am appealing to you that you must recreate India, that you must give a few minutes every day, notwithstanding your daily struggle for existence, for that is given to every man in the inscrutable wisdom of God, you have got to labour, but in the midst of your labour every one of you must make it a purpose in life—not merely to make speeches, not merely to pass resolutions, not merely to argue, for we have argued enough—but to translate your ideas and live up to them in your life. I am sure that you will not disagree with me when I say that there is no man with any spark of manhood left in him who will deny that it is up to every man to fight for his freedom. Therefore, fight for your freedom.

There is no greater virtue, in my opinion, than moral fearlessness, moral courage. What else is it that makes that

great man, who is physically the most frail and the most unprotected man, the most honoured man, and the most powerful man in the world to-day? He has risen above all fear. If only he has got to assert the truth, he will stop at nothing and he will dare to go forward against millions of cannons. Each of you must make it your duty to rise to that height of moral courage. It seems to me that what we require is moral courage.

Ladies and gentlemen, if I have awakened in you, in every single individual among you, the faith of your liberation, I shall consider that I have not addressed you to-night in vain."

IN PURSUIT OF KNOWLEDGE

Psychological Revolution.

"Is there, or has there been during the last quarter of a century, if not at all events during the last 15 years a psychological revolution going on in this country unperceived both in its magnitude and in its intensity? In all probability, each one of you will give some sort of a ready answer, but it is not in that spirit that I am putting you this question. I am putting you this question in a spirit of enquiry with a view to use the answer for the practical conduct of life for Indians. I am propounding this question both for the purpose of furnishing such answers as I can give and also to enable you to consider it all over again in your minds in your moments of leisure.

"In the fullness of time, most of you young men and young women will go out of the University with its blessings as citizens of to-morrow, a phrase by which Mrs. Sarojini Naidu is fond of addressing the young men and young women. Now what is it that you will place before yourself as the immediate aim which will run through the activities of your lives, as the citizens of to-morrow?

If, by going as citizens of to-morrow, you mean that you will go down to a city or a village—in all probability your activities will be confined to cities—and work merely for your own living or advancement, then all I can say is that you have not understood the meaning of the word "citizen." You may have read many books on the subject of citizenship, real as well as abstract.

Who is a Citizen ?

"A citizen is not merely an individual who belongs to a particular town or city by the mere accident of birth. A citizen is an individual who takes part and takes genuine interest in the corporate existence of the community or town in which he is placed. If you think that merely because you were born in Nagpur, because you possess a vote, because you own a house, because you have been educated in this University or that college, you are a citizen of Nagpore, then I must say that that is a poor idea of citizenship. It is the contribution in personal activity that each individual makes, by way of contributing to the life of the village or town in which it becomes his lot to carry on his life, that makes a true citizen. For you cannot say that you have lived the life of a citizen by merely carrying on your avocation or profession.

"It is not enough that you are a lawyer, or a doctor for it is the duty that each one of you perform entirely in your own personal aspect of life. A citizen, in order to be a good citizen, has got to do what is conceived to be the duty of a true citizen to his town, city or village in which he has got to live. It is that question that I propound to you to-night, and simple though it may appear, it is of very great importance in practical life.

"I may as well begin with the immediate object I have in view, having regard to the auspices I am speaking under. I am one of those who believe that the medium

of education that we have adopted or that has been forced upon us must, in due course of time, give way to another medium of education so as to enable us to fulfil in a better way our duty as citizens as I have conceived it.

"Time there was when the Indian National Congress itself, not in its political, but in its national aspect, used to regard its duty as done, when just at the begining of of the year or at the end of the year, its members gathered together as citizens from the different parts of India, considered the then condition, passed a few resolutions, forwarded them to the Secretary of State or the Viceroy as the case may be, and for the rest of the year in so far as the Congress was concerned the country used to hear nothing more of it.

Contact with Masses

"If at all we are going to build a corporate life, it is not by means of resolutions that a few of us as intellectuals of the country, may pass or by mere attendance, that we shall be able to do so. If we are ever going to occupy the place we deserve among the nations of the world, we can only do it by coming into contact with our peasants, workmen and labourers, in other words, what are called the masses. This the Congress began to realise some 15 years ago and as a result, its conception began to widen, and this is the most progressive aspect of that great national institution to-day in which we should all take a share.

"Could you ever imagine an Englishman asking another Englishman "Shall I teach my children in English or in French?" If an Englishman puts such a silly question to another of his fellowmen, he would simply be laughed at. In the same way could you imagine a Frenchman asking "Shall I teach my children in French or in English?" I am equally certain that the Frenchman would be ridiculed by his countrymen. I am sure that this is true of every country

that can boast of a corporate life, and yet in the circumstances in which we find ourselves, most of us at one time were almost proud, ignominiously proud, of being able to speak in English and of being unable to speak in our own mother tongue. We were ashamed to own any knowledge of our own mother language.

Reaction of Foreign Rule

"I know many young boys and girls who are extremely proud of their English, and when asked a question in Gujarati, Marathi or Hindustani would say "Oh, I cannot answer these questions, as I do not know the vernacular so well." It was nothing but the reaction of the last 150 years of foreign rule in which we have lived. I am not here to quarrel with that fact, I am here to analyse the reason so that the future which lies before you may be better understood. Time there was therefore when that was the position. Perhaps recalling the history of the Roman Empire you will all remember how proud the Britons felt, how honoured they felt, when they were greeted in the Roman language. We the Indians felt that the reflective glory of Britain was our own glory, we believed and we thought that by living their life, imitating their manners, we could become miniature Englishmen, but such a thing can never be in the life of any nation.

Let me give you an instance. In the year 1917, we had a Provincial Conference in the city of Ahmedabad. My friend, Mr. M.A. Jinnah– I should drop the word Mr. as we are very close friends—was the President. Some of us his friends, went with him to that conference. Mahatma Gandhi, then known only as Mohandas Karamchand Gandhi, had just come to India and was received with a certain amount of patronising kindness by the politicians of those days, and he was asked to move a resolution in the open conference on the South African question. I well remember

the formal patronising way in which he was introduced. "Now we must get speakers for this resolution. I think Mr. M. K. Gandhi who has just returned from South Africa will be able to speak". That was the position he got then.

As the conference was over, a vote of thanks was proposed. Mr. Gandhi was the proposer and I was the seconder. Mr. Gandhi came to me and said "Look here Bhulabhai, I propose to move this resolution in Gujarati". I welcomed the proposal and agreed to follow suit. He got up and started making a very fine speech in Gujarati which I have never forgotten since. A very distinguished gentleman of the time who was the President of the Mill Owners' Association had written a very beautiful address in English over the greatness of the city of Ahmedabad. Mr. Gandhi moved the resolution and said "So and so has written a very beautiful description of the city of Ahmedabad, but had he written it in Gujarati, I am quite certain that his father (his father was present there) would have understood and appreciated it."

From that time began the great propaganda that Mahatma Gandhi has since carried on for establishing contact with the masses through the medium of languages which they can understand. I wonder why they are called vernaculars. The areas with which and in which we talk in our language are in no way smaller in their extent or in their culture as compared with similar areas where different languages are spoken. In fact, you take the continent of Europe ; more languages are spoken in smaller areas than Gujarati in Gujarat, Bengali in Bengal, Marathi in Maharashtra, or Hindi in the United Provinces, and yet we feel almost a sense of guilt if we have to speak in the language of our own province. In order to be able to approach the meanest intellect, a good knowledege of your own language is absolutely essential.

"To me it is both a matter of pleasure and pride to talk in my own language. I have persistently attempted to speak

in my own language with some of my friends, but I am ashamed to say that in some cases I have failed. It is time that we shake off that mentality. The fact remains that, if ever you are going to do anything substantial and to rouse the masses to the true consciousness of their own situation, and to lift them, there are no other means to do it except through the medium of their own vernaculars. Therefore, we should make it our duty, each one of us and every one of us should make it our duty, to cultivate our own language in order that we may be able to convey to the meanest intellect the ideas and thoughts that belong to us. It is in that way that we have begun to realise since the year 1917 its importance and magnitude.

"That is the first aspect of the psychological revolution to which I would call your attention to-day. I would say that it is a thing which you would see if you want to to see; for those who want to be blind will never see. That is the situation as regards the great psychological revolution that is going on in this land.

Purposeless Knowledge

Now we have realised that for us even the best knowledge that Europe can provide is a purposeless knowledge. Still we have not yet become fully conscious as we ought to be, that that knowledge has no value unless its lesson can be carried to those to whom it should be carried. How will you be able to carry it unless simultaneously you find a medium for its conveyance to those whose lot is and necessarily must be to understand it in their own tongue, for there is hardly a country in the world where it is possible to carry a message to the large majority of its citizens in a language other than that which is their mother tongue, in which they are born, and with which they will ultimately die. Therefore during the last 15 years or so, it has become the duty of those who appreciate this revolution and who want to bring about this revolution

to establish contact with the masses. For what does it matter that you and I understand the problems of the world the problems that confront us, if they are not understood by the man-in-the-street. Since the last ten years or so between the time Congress was dissolved and the other Congress was held, the Congress has been making it its duty, every man who calls himself a Congressman has been making it his daily, his hourly duty to go out into every individual area and to speak to the people there in their own language, in a manner they can understand.

Perhaps you are aware that the missionaries who come out to India get enormous endowments under a plea that they are spreading light in a country which is dark and ignorant. They do not distinguish between you and the aborigines of Africa. They still think that we are in a world of darkness and utter uncivilisation. Here again one thing that I want you to realise is this. The Indian mind, merely because it is illiterate is not uncivilised. The Indian mind, on an average, is a far more developed mind than most of the average minds of western countries that boast of their present civilisation, and I say it for a very good reason. We have mixed up and confused into a fallacy that illiteracy is the same thing as an undeveloped mind, for more often than not, you have been told that what we do in this country is due entirely to illiteracy and this illiteracy is brought up as a ground for many a sin of which it is guilty and many more of which it is not. I have asked myself many a time "What relation has illiteracy to our right for freedom?" To many an Englishman I put this question and I will put this question to you also "What was the proportion of literacy in England in 1732?" I think if you ever care to examine it, the illiteracy in that land was far greater than it exists in India to-day. Was England less entitled to freedom because it was illiterate? Are any of the states in which literacy is not even known less entitled to freedom, or it is that they are entitled to

freedom because they have realised their duty, have the patriotism and the spirit to assert their right to freedom and have the capacity to make sacrifices towards that end? And yet, more often than not, illiteracy is confused by a fallacy with an undeveloped mind. It is up to you to repel the charge that is often made against you.

First Duty of Citizenship

The last important thing that I want you to realise is that, as a citizen you owe your duty to your village or town or city, as the case may be, not in the sense of personal advancement however high it may, and that you will not have lived the life of a citizen unless you by your daily contact put the knowledge you have gained at the disposal of a few men, however small the number may be. Otherwise your existence or non-existence is the same, for what is the utility of life in its ultimate sum-total of quality? Whot does it matter if you occupy the highest position or status in life, what does it matter if you amassed great wealth; perhaps your heirs will be only eagerly awaiting your death *in order that they may take your place and enjoy it, The* only thing that matters is the selfsatisfaction, the feeling that you have left the world at least a little better than you have found it by doing your duty as a true citizen. You are always told when you get a degree and get out of the University "Now begins your career." You may be a great mathematician, a great scientist, a great historian or a great poet; but greater than all the legacies that you will leave as a poet, as a literature, as a scientist or a historian will be the legacy you will leave if each one of you in your own individual personal life realise the duty that you owe to the society that gave you birth, to the society of which you may well be proud.

An Unnoticed Revolution

Thereafter the duty that you owe is this. You shall

make the knowledge that you acquire here, the knowledge of your fellowmen. How will you do that unless you shake off the reaction that is the result of an enslaved mind? You should cease to be proud of the higher knowledge of your Imperial master, and should cultivate your own mother tongue so that you may go to your own fellow-citizens, your brothers and sisters in villages and make them realise the condition in which they are. That is the first unnoticed revolution that is going on in this land. If only you are masters of your own language, you can easily make the masses understand the most complicated problems that at present are agitating the world. The way to do it is not by a mere translation of an equivalent from Sanskrit or any other language, but by means of understanding the common mind and by analysing the idea into its simplest form so that the meanest intellect can easily follow. I am here to bear testimony to the fact that during the last some ten years I spent a considerable amount of time among the farmers who perhaps are the majority, the largest majority nearly 85 per cent of the population of this country, and I have found in my contact with them that there is not a single idea that cannot be explained to them, and you will really be amazed at the alacrity, the quickness with which they grasp your ideas. The Indian mind is so quick to understand that you will have an agreeable surprise if only you make an effort. But it is a matter of deep regret that our youngmen have not up till now, to any appreciable extent, made any sincere effort in that direction. If they want to be true citizens of to-morrow, their first duty, their first equipment is to gain sufficient working knowledge of the languages of the province in which they live and more important than the knowledge of the language is the spirit in which they go to their fellow-men. They should not go to them in a spirit of superior educated men which they are doing now. They do not go to their men and women in their villages in the spirit in which they ought to go. Many a man I know feels ashamed of the origin

from which he has grown into a big citizen that he is. You should dare and live to be men, and I may here remind you of a poem that you may well repeat and which in earlier days at college I learnt.

Self-reverence, self-knowledge, self-control.

These three alone lead to sovereign power.

That is the life which I want every citizen of to-morrow to keep before him as an ideal. That is one of the best peoms of Tennyson but what does it matter that you should learn it unless you analyse the meaning of each one of its lines, in relation to your own life, your own country? Have you felt that self-reverence requires that you shall recognise the lowest among you as your equal so that he shall not be looked upon by the outsider as his inferior? It will take a long time to remove that complex, but it has to be removed some day, the sooner it is done the better for you and for the country.

Take your Share

My first object in addressing you to-day is to bring to your notice the great psychological revolution that is going on in this country and it is up to you to assist it. If each one of you take a share in it, if you make it your duty to translate your knowledge in however small a degree in the language of the man in the street to the man in the street, you would be infinitely richer than what you are to-day. For as the proverb goes, among all kinds of wealth, knowledge or learning is the only wealth that increases by spending.

The reaction of a race resigned to its lot, that is what has become of the Indian mind during the last 150 years, and now the time has arrived when you will no longer resign yourself to fate, when you will no longer say "I

cannot make an effort" but you will say to yourself "I owe a duty as a citizen to my neighbour, and if I only do that duty and if all the young men of the country do like me, we can drive away ignorance from every single home in this great land. And here I should tell you—you may agree with me or you may disagree with me—I am one of those who believe that the great mental revolution that is going on in this land to-day is due to the spirit and work of a single individual who has conceived life on a different plane altogether. It is up to you notwithstanding your natural limitations to make every individual effort and to put your shoulders to the wheel. The mental revolution has already commenced and it is up to you to carry it forward, to get into touch with the man in the street with whom we were never before in contact on account of a sense of arrogance, on account of a sense of superiority which was but a poor imitation of an Imperial swain. That is what has reduced India. In fact that was the reason why Englishmen used to say that the Indian National Congress represented only a microscopic minority in India and therefore there was no purpose in attempting to reconcile or concede any of the demands put forward by it. Why was it a microscopic minority? It was because that minority failed to come into direct contact in any living relationship, in any living bond with great masses of the Indian people.

Deeper Significance of Self-respect

You might have read in your wisdom Russeau's idea of social contract, of equality, liberty and fraternity in your colleges. What was it that brought about the great French Revolution? The same ideas are in their growth to-day and we do not seem to see them in their true magnitude, in their true perspective, the voice of the microscopic minority growing into the voice of the Indian masses is the idea that is during the course of growth to-day.

The next unobserved revolution that is going on in

this country is the feeling which is well-described by Tennyson, of self-reverence—self-reverence not by any individual personal assertion but by recognising that you deserve to be treated as a man, and that there is no man so superior to yourself that in his presence or under his influence you should feel less than man. Self-repect is a very ordinary word. I know some societies in Madras that call themselves Self-Respect Societies. Self-respect does not mean that you should be insolent to me or that I should be insolent to you.

What is the true definition of the word "Self-respect?" What is its truer and deeper significance? It is what is due to yourself, the man and the soul in you, it is that that you want to repeat and not only in its individuality. It is that self-respect which is the bottom, which is the foundation of all patriotic movements that you see going on in India during the last 15 or 20 years. You should die a glorious death than lead an inglorious life. The greatest revolution in Indian history is the revolution that is going on before you to-day, and it is really amazing to see that the student world has stood by and not yet sufficiently felt the call. If only I had the energy and time I would make it my duty to go to every school, college and university to point out to them and make them appreciate, recognise and to rouse up their consciousness of what they are and what they do not do. How many of our students from the high schools up to the colleges have recognised that there is waiting for them in the India of to-day a duty and an obligation which they could perform in its entirety without in any way hindering their studies or affecting their means or resources? It is only the assertion of India's self-respect that shall bring us freedom.

The Assertion of Ideas

Of what use is your lip-homage to the idea of liberty, equality and fraternity? What would you have at the end of it all out of your examinations. You grow eloquent

when you talk of the Magna Charta. What does it matter if you have learnt the history of England and how the people of the country secured the Magna Charta except for the degree that you bear? What does it matter that you study the history of every country? Have you read about the American War of Independence? The first and initial step and yet the greatest step which brought about the existence of that great democracy was the throwing of a chest of tea into Boston Harbour. A single event like that is the origin of one of the greatest revolutions in the world.

When your great Leader undertook a march of 150 miles on foot, meeting every single man, woman and child in the way and ultimately lifted a piece of salt which was the subject of a tax for the Government, not so much as a matter of tax as a matter of assertion of the freedom of the Indian people, how many of you had the courage to join him? One regrets to find that except a band of a courageous few, many of you had neither the imagination nor the sense of freedom, nor the sense of consciousness that you owe to yourselves! The incident, has undoubtedly passed by, but it is the biggest step in Indian history. When that frail man, that great soul, lifted a piece of salt on a sea-shore, if only the people had realised its true significance and the duty they owed to themselves, that would have been the origin of as great a revolution in your own lives, in your own country as the American Revolution.

What did the Americans say? No taxation without representation. In itself a phrase, but that does not matter; a phrase that you and I may repeat, but it is not a mere repetition of a phrase, it is the significance of the great event.

The pioneers do not expect the result in their own lives. They are there to sow the seed and it is for you to reap the fruit. That is the second revolution that is going on in this land, the assertion of self-respect as a right

to its own freedom and if you do not share in it, then you do not deserve freedom.

As I said on another occasion in another place, it is not Mahatma Gandhi who failed you but it is you who have failed Mahatma Gandhi because you failed to recognise the significance of the step he had taken. I am not here to justify any individual incident that occurs. I am not on the lower platform of daily controversial politics. I am on the larger significance of one of the greatest events in world history which, if you had the imagination to see, you would have used to your advantage. Perhaps in course of time, you will see its significance as indeed the Americans saw. I am here therefore to tell you that that is the second revolution that is going on in this land unperceived by you, and it is up to you to bear your share in bringing it to a successful conclusion.

Race Perception

The third revolution that is going on in the Indian-mind is revolution which is perhaps still less perceived than the first two and that is the consciousness that the Indians *are a race and that the Indians are a nation.* I shall now give you another illustration because in that way and that way only the larger lessons of history can be learnt. It is easy to be eloquent on the laws passed by this Governor-General or that Government, but it is very difficult to be eloquent on smaller matters of life which are perhaps of greater significance. Most of you are aware that the fundamentals of human life are too small. It is only their application that makes them big. Every one of us, every single human mind, by an innate inducement looks for God as if He is outside himself. If you only have the consciousness and perception, you will realise that God is in you and not outside. That is true of human life. It is the nearest and the simplest truth that is the misfortune of man not to observe. In order to understand it, you must go far, but in going too

far you miss what is near. That consciousness is growing on the Indian people to-day. You must not deter them from that consciousness. Time there was when if I asked a man who he was, he replied "I am a Bania, I am a Brahmin" and named a particular caste of a particular town. In the Gujarati language he will say "I am a Surati Bania." That means that he is a Bania coming from Surat. That is the unconscious answer that each one of us gave. If you asked an Englishman the same question would he tell you "I am a Protestant" or "I am a Catholic" or "I am a Devonshire Protestant"? He will merely tell you that he is an Englishman because he thinks in terms of the nation to which he belongs; and that is the next revolution that is going on, the significance of which is not yet perceived.

Think in Terms of Indian

You must now begin to think in terms of an Indian and not in terms either of a Hindu or a Mussalman or a Christian or any other section that you may happen to belong to, nor even of a Province, nor even of a language. It is only when that consciousness rises in you that you will not require any very great effort to make India your own.

The other day I was in Madras. What did the "Madras Mail" do ? Knowing what we are, knowing our psychology, knowing how we have reacted under 150 years of foreign rule, the first article that the "Madras Mail" wrote was to this effect. 'You want a Gujarati to come and advice you on the political arrangements you should make. What has become of you? Do you accept him here because to-day Mahatma Gandhi guides politics?" I call the editor of the "Madras Mail" a real politician because he has seen through the weak point in our psychology. Perhaps 20 years ago, I would not have been surprised if another meeting had been held to protest against my presence in Madras but,

thank God, every leader of Madras got up that evening on the platform at the High Court Beach meeting and said "We are proud that we are no longer provincial, we are no longer narrow in our outlook, he is as much an Indian as ourselves and those who seek to divide us by appealing to our provincial narrow patriotism are themselves our opponents and our enemies.

Our Hour of Trial

This illustration ought to teach you what is the next revolution that is going on unperceived by us. I want every one of you, every single man and woman who are students of this University to think in terms of our country. I am almost tempted to translate the great national song which you have perhaps heard sung. I want you to analyse that song. There is no country in the world which is so self-sufficient, there is no country in the world which is bounded by such natural boundaries, there is no country in the world which is so rich in natural, mineral and agricultural wealth like ours, and yet this country is not for those who by right of birth belong it. It is that consciousness that is growing to-day. It is this little mental revolution which I have come to speak to you about to-night. I want you to recognise that the first great revolution that is going on unperceived is the contact of the microscopic minority, as it was called, with the great masses of the country, the second great revolution going on is the assertion of self-respect and last but not the least revolution that is going on is the consciousness that you are Indians before anything else, just as an Englishman is an Englishman, a Frenchman is a Frenchman or a German a German before anything else. A very great responsibility lies upon you, for you stand at a period of transition in the life of India and it will be your own fault, your own failure if you do not percieve that revolution. If you do not recognise it and if you do not assist it, we shall stand behind. If you assist it, we shall go forward under the mercy

of Providence. Just as on a former occasion, so on this I wish to remind you of this. I appeal to you in the name of the great land to which you belong, to give, to make it your duty to give a thought every day to this question. Please do not treat it as a mere matter of eloquence, or argument, for, I have argued nothing, I have only called your attention to the simplest illustrations of great significance in the lives of other nations that have made them what they are to-day. Similar events are happening under your very eyes. It will be your own fault if you do not contribute to your own freedom and your own growth; but if you do contribute to your own freedom in a spirit of humility, in a spirit of true knowledge, you may really depend upon it that with God's mercy and your assistance India shall be proud of you, otherwise she will stand to-morrow as she has stood during the last 150 years, an inferior race and a by-word, and you will be unworthy of the great heritage in which you were born. This is India's hour of trial. If you will only remember the simple truths that I have told you, and act up to them in your every day life, India will be yours before long.

"WE CAN NEVER BE DIVIDED"

Nagpur, 26th Aug. 1934.

The following is the full text of Mr. Bhulabhai Desai's speech on "The True basis of Indian Society" delivered on the 26th of August under the auspices of the Young Muslim Society, at the Anjuman High School Hall at Nagpur. Mr. Hidayutullah, Barrister-at-Law, presided.

Mr. Chairman, Friends and Countrymen!

Perhaps you would rather be surprised at the somewhat

different form which I have adopted tonight for addressing the audience. But thinking over the formal expression "Ladies and Gentlemen" it struck me that speaking under the auspices of the Young Muslim Literary Society, and speaking generally to the citizens of Nagpur, it was time that I adopted some form of address which will give you an idea of what I propose to speak to you about to-night. It is for that reason that I welcome you here and I congratulate myself on your presence and particularly on that of every one of my Muslim friends, for, on the true basis of the Indian society on which I propose to speak to you to night every one of them is my countryman. It is for that reason that I address you as "Friends and Countrymen" rather than by the ordinary and formal mode "Ladies and Gentlemen."

"Beautiful Faith"

I am one of those, who, by accident if not by design, have been led to a somewhat deeper study of your beautiful Faith, Islam, and its literature. It is that which stands me in good stead occasionally when I go among my friends who least recognise in me as one who knows a great deal more about them than perhaps they are aware.

I wish to take you shortly through a period of history and perhaps a part of your literature in order to illustrate what I have got to say. I won't give any direct answer to the question that I will propound to-night, but I will leave you to furnish the answer yourselves. Perhaps you are aware that Islam—you need hardly be told—is the youngest and sturdiest of all religions, and whatever I tell you here tonight I wish you to take without, what they say in English, a grain of salt, for I have not come here to praise Islam or any other Faith for that matter, but I have come here to give you an aspect of Islam which will furnish an answer to the question as to what is the true basis of Indian society.

Young but Sturdy

I am one of those who believe, after a great deal of study of Islam and its philosophy that it is a religion which perhaps is the sturdiest of all religions and which, at the same time, is a democratic and a virile religion. It is a religion undoubtedly which has very few divisions notwithstanding the bifurcation since Ali became Imam into communities, notwithstanding the fact that a great deal of blood had been futilely shed in the quarrels between the Shias and the Sunnis, and notwithstanding the fact that since then Sunnis have been divided and subdivided into many castes. Notwithstanding all these, the fact remains, if you examine the question dispassionately, that Islam is one of those few religions which have up till now retained their purity. I am omitting the Zoroastrian Faith because it is now confined, so far as Persia and India are concerned, to an extremely small community and I am only thinking of the Faiths which count millions as their followers either by birth or by choice. It is in that way that I am trying to give you, according to my light, a short admitted and accepted history of Islam, its extent and propagation in this country, so that you may be able to understand the actual purpose for which I am speaking tonight. I was telling you that notwithstanding the two schools, the Sunny and Shia, with which it began, and notwithstanding the many divisions and sub-divisions that exist to-day, the fact remains that Islam has lesser sub-divisions than almost any religion in the world, not excluding Christianity. Now I ask myself, "What is the contribution that Islam has made towards the civilization of the world?" For the answer to this question, more than any other, will teach those who espouse Islam, at all events in this country, the duty they owe to themselves and to their country.

Born of the same Grandfathers

From the time the Aryan population began to embrace it—I would stand corrected, if I am wrong—it is certainly

not more than 800 years ago since Islam began to make any real progress in this country. The most important thing to remember is that the Islamic population of India to-day is not an imported race that has immigrated into this country. The Mussalmans of India are not even like the Normans who inhabited England in the olden days. The Mussalmans are by birth, the great grandchildren of the same forefathers to whom I belong. If you understand that most important point, then you will know who the Mussalmans of India are to-day. Now I wish to take you back 800 years when the acceptance and propagation of Islam began in this land. The acceptance and propagation of Islam in this land gained undoubtedly great impetus from perhaps the Moghul Emperors, which was the second stage of Islam in this country. Most of you might remember having studied in Indian history that Islam began to acquire its solidarity only from the period of the first Moghul Emperor who undoubtedly was the first to endear himself as the regular colonist. That is the first and the greatest distinguishing feature of the Islamic Empire from many of the Empires of to day. I am giving you the expression of an American historian when I say that the conquerors became a very servile population willing to serve their masters as the hewers of wood and drawers of water and they had no feeling or the sense of their own superiority.

To me it is that which distinguishes the Islamic Empire of India from the present Empire under which we happen to exist. The Islamic Empire of India had this greatest feature, among all others, that is that the conqueror and the conquered both lived together as the common people of the land, notwithstanding the fact that one espoused a new religion that was being propagated in this land, and the other followed one of the most ancient religions of the world. In fact the Moghul Emperor and the whole of his camp became a part of the Indian

people. The Islamic population that you find in India to-day consists firstly of those who accepted Islam as a result of the Islamic propaganda and secondly of those who made India their own land. In other words, the Moghuls did not adopt the policy of exploiting India and going back to their own land after the accumulation of sufficient wealth, but stayed in India, adopted it as if it was their own native land, and loved it more than the original land from which they come. That is the next period of Islamic influence in this country, an influence which was largely exerted through the Moghul Court and those who followed it. It is the same influence which gave to India a language which may become the common language of tomorrow, perhaps in slightly modified form. The word "Urdu" which, as many of you would know was borrowed from the Turkish language and adopted by the Moghuls who came here as conquerors, merely means a camp, and the Urdu language means no more and no less than the language of the camp. The mother tongue of the Moghuls and the language of those whom they conquered and among whom they settled became mixed up, and the mixture came to be called Urdu. This is the origin of the great Urdu language.

Example of Akbar

Though the Moghuls came here originally as conquerors, yet by assimilating the Indian civilisation, by adopting India as their native land, and by adopting the language of India, they became more conquered than the conquered themselves, in fact they have become a part and parcel of India to-day. Let us also remember that it was during Moghul period that perhaps the greatest Moghal Emperor gave to the world an example of tolerance and of understanding of Faith which my friends professing Islam to-day, might very well copy and remember. It was the great Emperor Akbar who considered it a part of his duty as Emperor,

not merely to make a formal study of all religions then existing in the country, but to attempt to see whether it was possible to form an eclecric faith whereby all may be gathered together under the banner of God, under one single religion. His failure does not matter, but what matters is the spirit that inspired him to make one of the greatest experiments in the world to try to understand the basic principles of all the faiths, of the faith of Islam, Hinduism, Christianity, Zoroastrianism and Buddhism. He made it a part of his duty as Emperor to see that those religions were properly studied, not merely as a matter of intellectual appreciation but as a matter of attempting to find some common platform, some common basis by which each may still believe in the particular form of faith in which he was born and brought up, and yet recognise a follower of another faith as his equal and as his brother, with perfect understanding and perfect tolerance. There is no time for me to go into the details of the work of that great Emperor, nor is it my desire to take you into a detailed discussion of any particular problem; but I have made it my purpose to teach you, as I have taught myself, Indian history in the way in which it ought to be understood, so that this land-mark may serve as a lesson for all of us. It was the great Emperor Akbar who set an example to the rest of his followers by way of marriage and by the assimilation into the administration all that was best in India.

They Indianised Themselves

I can give you innumerable examples, if I had the time, to show that the distinguishing feature of the Moghul Emperors was that they made India their home, in fact they felt themselves and made themselves Indian, abandoning the home from which they came. They made the Indian language their own language, preferring it to the language which was their own mother-tongue. The two great lessons that the Islamic population of India should learn from these obvious uncon-

troverted facts of Indian history are that they are by race and culture a part and parcel of the Indian people, and that apart from the fact their ancestors accepted the Islamic faith they belong to the same derivative culture and civilisation to which I belong, and that the origin of a part of the Islamic faith does not date back to more than two hundred years. If you want instances, I would point to my friends of the Khoja community and I will point to my friends of the Bohra community, and will point to my friends of the Memon community who only adopted Islam not more than two hundred years ago, and yet they are to-day a part of the Islamic population of India. It is not a secret, it is found in the first volumes of the Indian Law Reports that so far as the Khojas are concerned, they are but a part of the same trading population known as Bhatias of whom they are the counterparts in energy and business habits, in fact even their name and appellation. But for the dress one cannot say whether one is a Khoja or a Bhatia. And the same thing I can say of another community which forms a part of the Islamic community of India to-day, and that is the Memon community, who are perhaps a little more assertive and who have spread themselves in every part of India in quest of trade, and yet it is difficult to distinguish them from their Lohana brothers who are equally adventurous and who are also to be found in all parts of India, Burma and in many parts of Eastern and Southern Africa. That is how you find two branches, two descendants of the great common ancestors, one professing the Hindu Faith and the other professing Islam, but who are in culture and in understanding the same as my own brother in every sense of the term.

A Lesson for Young Muslims

What lesson does that teach you, the young Muslim Society of to-day? The great lesson which you must ever remember and must never forget, as we are sometimes apt to forget, is that you are not an imported immigrant popu-

lation of this country, that you are not outsiders who have been imposed upon us from outside, but that you are of the same blood as we are, you have grown from the same earth as we have grown from, and that the only difference is that you prefer either by birth or by choice to reach God through the medium which you call Islam while we prefer to reach the same God through a medium which you call Hinduism. But allow me to convince you of one thing which is the only purpose of my address to-night. If any Mussalman comes and tells me that he is different to myself, I am here to deny it at the cost of my Faith, for I am here to tell him that the way in which he calls upon Allah to bless him does not make any difference to us. I will invoke his ancestors when he forswears the Indian people in any manner; I will swear by his great ancestors; whether he is removed two hundred years or whether he is removed 800 years makes no differenee to the oath by which I shall pledge that he is my brother. The mere fact that he professes Islam shall not divide him and me; what is more I will remind him that his mind, his brain, his culture, his development, notwithstanding the assimilation of all the best that he has got from the younger and sturdy faith, are the same that we possess. I am not here to argue that his Faith is any better than mine or that my Faith is any better than his, but I am here to tell him that he is my brother, and that he cannot be any other.

We can never be Divided

Ages ago, the wave of the Aryan civilization brought only one race to this land and it is to that and to that alone that he can trace his ancestors. There is no other race, there is no other civilisation to which he can trace his ancestry. Let me therefore impress upon you in the name of the Faith to which you belong, in the name of the great ancestors from whom you have sprung, and to

whom you belong, that you and I can never be divided. It is undoubtedly a surprise to me that India is said to be a country that must be divided merely by reason of the fact that you, a part of myself, my own flesh and blood, happen to espouse a religion which is different to the one that is mine.

Glory of Islam in India

It was only a short time ago, a little more than four months ago, that I happened to visit the city of Agra. I tried to review in my mind then the whole culture of Islam in so far it has become part of the Indian culture to-day. Looking backwards and analysing it, I must apologise for everything that had been done. For instance I went up to Fatehpur-Sikri, and small though the incident may be, I was shown the room in which Akbar's Hindu wife worshipped—I was actually shown the place—and in which grew the favourite symbol of the Hindu women, the Tulsi plant. I was shown another room which was occupied by his Christian wife. These ladies were maintaining their faith, and were still the wives of the great Moghul Emperor of India. I can go on telling such instances of places I visited with a desire to learn. I went there merely to see the beautiful Islamic culture, the beautiful Islamic architecture and the great monuments by which India is distinguished. They are reserved for those who come from foreign lands to see out of sheer curiosity and with a patronising kindness and to tell you, "How great your ancestors were" without telling you how unworthy you are of those great ancestors whose works are yet admired after so many centuries. One of the greatest Moghul Emperors who had a great poetic gift and who was the greatest lover that the world has ever produced has enshrined his love in a structure that the world will ever continue to admire. It was inspired by a personal faith, by a personal devotion, by a personal ideal

and by personal aesthetic outlook. It is that which inspired its simplicity and its greatness, it will last as long as the world lasts. They come and admire it merely as a beautiful work of stone. It is up to you and me to see in it a pledge of love, and not merely an architecture of stones of which it consists. It is up to you and me to go to all those places, to those great emblems of the Islamic culture and give the correct interpretation. That great empire has passed away, but you and I remain. It has often been regarded as a poetic imagery to say that many empires have passed away and yet the world remains.

Our Common Heritage

I will call your attention to another great relic of Islam in order only to remind you that we can never be and never must be divided, because the true basis of society is the recognition of the essential brotherhood that exists between us notwithstanding the diversity of our Faiths. On another occasion I was standing on one of the highest terraces of what is called to-day the modern Delhi, and a European of very high position was trying to show me round and told me what each thing was. He showed me what he thought was new to me, but I did not interrupt him. He showed me what he called the seven Delhis. I wonder whether you know that there exists in or about the same site the seven cities of Delhi created during the course of seven vicissitudes of Indian history. Among others, I was shown what they call the "Purana Kila," the emblem and the relic of the Moghul Delhi that exists side by side with what I was shown as the Hindu Delhi which perhaps is in greater ruins and which represents the earlier Hindu Empire on the same spot. The spot is sacred for any man who understands the history, not the mere succession of events. You will see there with your own eyes that it is in the same dust that both the Hindu and the Moghul Empires got mixed up.

It is in the same dust that your Empire and the Empire of my ancestors got mixed up. It is that, that Islamic history ought to teach you more than anything else when you think of the Moghul period. The next great Empire that succeeded the Moghul Empire was the shortlived Maratha Empire which has given place to the one that exists to-day.

The True Basis of Hindu Society

My only purpose in discussing the true basis of the Indian Society of to-day is to ask you to look back on our history in a true spirit of understanding.

Why is it said that because in this country a part of the population believes as a matter of its religious faith in Islam, a part in Hinduism and some in other religions, this country, distinct from all the rest of the world, can never be one united nation at all ? Has religion made any difference to the growth of any political society of any kind ? I have confined myself purely to the historical aspect of the matter because I have promised myself that I shall not enter into any controversial subject to-day.

Going back to Islam, or rather those who embraced Islam in this country, what is it that they have given to India ? And what is it that they owed India, because they came ? They were undoubtedly of this land, and therefore they cannot be said to have conferred a favour in anything they have given to India. First of all they possessed all the ideas, all the culture of the ancient Aryan civilisation. Having done it, they embraced the new Faith and therefore it was only up to them to return at least a part of what we lost, if at all it can be called lost. They tried, they genuinely tried, honestly and sincerely tried, to engraft such civilisation as there was in the Islamic countries on to the culture of India.

English—Not a Language for Peasant

What is it that survives to-day ? Most of you are

aware that Urdu is the language which is spoken by the largest number of people. At least it is a language in which we hope to be understood from Cape Comorin to the Himalayas. It was only yesterday that I was reading an address delivered by my friend—I must call him my friend because we are genuine friends—the Rt. Hon. Srinivasa Sastri. He was telling a Bangalore audience—I also faced the same audience a short time ago—that some people are foolishly decrying English and that it is a great language, a rich language, as if anybody was denying that that is a great language. I do not despise the English language, nobody does. In fact I am one of its greatest admirers, I am a humble exponent though not so great an exponent as the Rt. Hon. Sastri of that language, for after all is said and done that is the only language for the present through which we can borrow all that is best from the culture of the West. But that is not a language through which we can speak to the peasant, the woman and the labourer. It is for that reason and that reason alone and not from any narrow point of view that we are endeavouring to-day to establish some form of common medium, and not in order to cut ourselves from the great influences of the West. If you have the capacity and the means to learn, by all means learn twenty languages—why only English?—learn French, German and as many languages as you can. A friend of mine was urging recently upon your Vice Chancellor to introduce Japanese as a voluntary language of this university. We have no quarrel with the other languages. If you suspect us we can't help it. There is no medicine, as they say, to the disease that is called suspicion. I wish to speak in English if I find that there is a large part of the audience to whom I otherwise cannot convey, at least with dignity and accuracy, what I have got to say, but it is not by choice that I use that language.

A Common Medium of Expression

It is only during the last 15 or 20 years that we

have begun to feel the necessity of having a common medium of expression whereby our ideas however difficult they may be, shall reach the meanest intellect, for without that chain of understanding no progress either social, religious or political is possible; no freedom without that is possible, for you have got to explain the true elements of freedom; it cannot be done by merely sitting in an easy chair in a town, nor can it be done by adopting University standards. There is no use a small proportion of us being highly educated in the languages of the West. If you speak English so that you may feel superior, I would rather say that you did not speak English at all. Learn by all means as many languages as you can, but learn first the language which will form the medium by which you can talk to the lowest and the poorest of the land.

Have you any substitute for Urdu by reason of the British Empire in this country? Have you a language which is the combination of a few English words and the rest of the vernaculars spoken and evolved as a language, where you can find such splendid literature and poetry as in Urdu? Urdu has it. That is the legacy that Islam has given us and that is the legacy which we shall maintain. They gave us their philosophy, and they gave us their architecture.

The other day, my friend, Mr. M. R. Jaykar speaking at a Musical Conference said that if Indians cannot combine in anything else they can combine at least in music. While appreciating the nobility of the thought, I regret to say, that if that is all that any Indian can find as a common meeting ground between an Indian and an Indian, then that should be a very poor common meeting ground indeed!

An Insult to Islam

Why do you, in the name of commonsense, wish to distinguish yourself distinct, not as a matter of genuine

pride, for then I would not mind, but in order only that you may be a greater favourite of your present master? It is that distinction with which, I quarrel. If a Mussalman comes and says to me "I am proud of my faith" he has my homage. If he says that of his culture, then he has my tribute. I am proud at all events of all forms of culture that have been given to us. They have all my respect; but unfortunately, that does not seem to be the distinguishing feature of Islam to-day. It is an insult to Islam to use the fact that you belong to Islam for a few crumbs of offices. If only we are united, we should be one of the proudest races in the world to-day. My greatest appeal to you is that you should recognise in me your true brother and live upto it, and not, in the language of the Bible, sell your soul for a mess of pottage. 'You my brothers shall not sell your soul,' the great democratic religion to which you belong, for a mess of pottage, for that is all that is offered to you when you go and humbly pray; "I am a Mussalman and not a Hindu". The essential basis, therefore, of Indian society is that we shall all recognise that we spring from the same earth, that we belong to the same civilisation and to the same race. We may reach God in different ways but we shall never part from each other as man and man.

After this lecture, the audience and the President were so moved that the latter offered the life membership of the Young Muslim Society to Mr. Desai and requested him to accept it. Mr. Desai declared: Ladies and Gentlemen, I hereby declare myself an honorary life member of the Young Muslim Society of India from to-day'.

WORK FOR THE LARGER FREEDOM THAT IS TO COME

The Nagpur Municipality presented on August 23 an address of welcome to Mr. Bhulabhai J. Desai in recognition of his services to the cause of the country.

The address was presented at the Town Hall by Mr. Samiulla Khan, Chairman of the Municipality, before a large gathering.

Mr. Bhulabhai Desai said :

"I am one of those who feel that while in other countries citizens are honoured for their work, for the services rendered in the cause of their own country, ours is the only country where we are called upon to honour those who work for the perpetuation of our position as a subject race. I am quite sure that the Nagpur Municipality during the course of their existence has honoured many Governors and lesser individuals, praying perhaps for the redress of their grievances in the way of mitigation of a tax or contribution to the local fund. I have not the slightest doubt that on those occasions the atmosphere that prevailed was entirely different from the one which I believe prevails to-day.

A Departure

Many men, not excluding the Viceroys, when they go to their own lands, feel that the higher honour conferred upon them is the freedom of a particular city or borough for one reason or another. You have now departed from your usual custom of honouring only those who worked for the continuation of your position as a subject race in honouring me.

The Three Grades

There are three things in my opinion which tend to create a division in Municipal administrations, broadly speaking. There is a division between those who think, for reasons which it is not very difficult to appreciate, that the Government stands as a sort of opposition to those who are popular representatives in any Municipality. There are those on the other hand who stand in midway and who imagine themselves a group who ought to resist any policy or

measure. Then there are those who probably serve themselves rather than the city. These are the three things which alone can account for any difference of opinion or antagonism that can arise in any Municipality. I am able to congratulate you on the fact that your Municipality is almost free from these divisions. Many more Municipalities I hope and trust will emulate your example in due course of time, so that so far at least as the Municipal administration is concerned, irrespective of larger problems, you will serve your city and citizens truly and well.

It is for that reason that I feel proud in accepting the honour that you have conferred upon me to-night. It is because you represent the type of Municipal administration the life of which has got to be common througout the land in order at least to prove that we are not unfit to govern ourselves. You should act on only one principle and that is not to swerve from the path of rectitude and duty. If only you do that, you can stand behind in the second rank—I hope that you do not mind that particular description—behind us solidly in the second rank of those who carry forward the idea of nationalism. You will have here a conception of responsibility and work, and not of patronage and privilege. If you look at your duties in that spirit, then I have not the slightest doubt that you would then have served those under whose suffrage you are here.

Hollowness of Communal Claim

How can we serve the national cause truly if we ask for special consideration on the grounds of community and put it to our men "I seek your vote not because I wish to serve the city but because I happen to belong to this community or that section"? I have always held these social differences were not intended to be used for such illegitimate purposes. Surely it is not suggested that you will be able to serve your city better if you invite people to vote for

when you confer the freedom of your city upon me, to see that the freedom of India is achieved by you. It is therefore up to you and to those whom you honour with the freedom of your city to see that the freedom is enlarged in times to come by the efforts of those who think in terms of the national cause as you dare to think, and it is in that spirit that I accept the honour that you have conferred upon me.

Trust Theory Exploded

In a meeting of this character, I do not wish to intrude on the occasion by attempting to make any detailed examination of the actual situation in which our country stands to-day. Many years ago I was one of those who believed in the theory of trust put forward by the most freedom loving nation in the world. It is still believed by those who were educated in the early contact of the East and the West that the message of freedom is not a mere matter of words but is genuine and seriously intended. I remember in a hall like this, sitting in your place, having heard one of the noblest of our patriotic sons telling us that while the Roman civilisation and the Egyptian civilisation have all disappeared, our ancient civilisation alone has survived and that there must be a purpose for the survival and he saw in that purpose that with our relationship with what we believed to be the freedom-loving people of the West, we were once more in the fullness of time going to advance towards that freedom! Those who believed so are no longer with us. But those who are left behind are begining to realise that freedom will not come to us for the mere asking, and that we have to take that freedom, so that the freedom so gained might be more glorious. For there is no better translation of the existence of the Imperial Empire of to-day than that its glory can only be enhanced by taking away the freedom of those who will be the "Brightest Jewel in the British Crown." That is the position in which India finds herself to-day. It is no longer a trust.

From Sire to Son

I well remember those days when we believed that it was held as a trust; those days have gone and the struggle for material existence has brought us face to face with some very plain and undisguised problems. We have realised that our freedom cannot exist with the existence of domination and with the existence of the power of another race over ourselves. How it will end, it is not for us to say, but that it will be continued I am here to say. I am sure that most of you in your admiration for freedom have read during the course of your English education the works of Byron, and I have not the slightest doubt that you will believe Byron when he says that freedom's struggle once begun shall be handed down from sire to son until freedom is won. That is the spirit in which we should work and that is the spirit in which we should fight for it until we win freedom for our Motherland".

CONGRESS AND COMMUNITIES

Address to South-Indians at Matunga.

I see from the many placards displayed here that I really ought to speak in another language, but I have no doubt that the time is not far off when my friends from the South and the South-east will be in a better position to understand our common language in which we can express our hearts and sentiments, not necessarily very accurately, but at all events with emotion behind it so that we need not talk in any part of India in a borrowed tongue.

Communal Award

I am also reminded just now of an address on the question of the Communal Award which was delivered here in this very hall a short time ago, and it is somewhat difficult to describe the qualities of that lecturer and his qualifications. I am not going to treat this question in any

original and the main object of the Congress has always been the attainment of some form of self-government for India by the Indians, they have very slowly progressed in the very idea itself. I should like to take you back to the year 1887 in which, as he said the other day in his speech, Pandit Madan Mohan Malaviya started his connection with the Indian National Congress. I wish to assure you at the outset that I shall speak during the rest of my address with the utmost possible deference and with the sincerest admiration for those who in those difficult times—for you must remember that it is wellnigh 50 years ago—guided the great movement. It was in the year 1857 that the Great Indian Mutiny was suppressed by force of arms, because it was a mutiny of force for the purpose of getting self-government. Let us, therefore, look at history in the true perspective without any bias and without any feeling so that we may understand where we actually stand. As I have told you already, it was in the year 1887, only 30 years from the first suppression of the Indian people, that Pandit Malaviya started his connection with the Indian National Congress. History tells us that the shock of a repressed revolution always results in the suppression of the human mind, and it almost refuses to speak in terms of liberty at all. It accepts in terms of absolute resignation in which it finds itself, and not only that, but always seeks some sort of security, some sort of peace, and some sort of suppressed physical existence. That was the psychological result of the suppression by force on the Indian people, and that was the state of affairs shortly after the assumption by the Crown of the direct Government of India.

Effect of English Education

The next important thing to remember is—this was the direct consequence of the event I have referred to—the fact that the Indian people by one stroke of legislation, or perhaps an Executive order, were entirely disarmed ;

and this produced a state of affairs unknown probably in the history of the world in so far as the process of emasculation of a race can be achieved. That was the position immediately after the year 1857. Some 30 years after that, after receiving a certain amount of English education through the Universities and colleges, people began to murmur against their condition. They began to realise that after all they were not what they might have been. And it was that which was the beginning, perhaps the first glimmering, of the idea that the suppression of a race cannot be an eternal condition. Those were the circumstances to which the Indian National Congress owed its origin. There was also an attempt—and that is the point which I wish to stress upon—at creating what you may call a national ideal, at least a national idea. Up to that point, it was believed—and the belief was almost accepted—that it was difficult to attribute to ourselves the term 'Nation' in any form or shape whatever. The very idea, the very form and the very name of the Indian National Congress has in it the first and the most important germ of the idea which has since been evolved and for which we stand to-day. It is that idea which is at the back of the mind, and should remain at the back of the mind, of every single thinking patriot, and no patriot should allow his mind, his emotion to swerve the least bit from its straight course towards the achievement of the goal. It is not a personal problem, it does not matter a tuppence as to what I think or what another man or a third man thinks. In this a man's position does not matter, his abilities do not count; and what really matters is his sincere desire, his sincere will to stand for the genuine ideal, unprejudiced, and uncorrupted by any personal point of view whatever, and whether he is prepared to pursue it in different forms and by different methods, adapting himself and the nation to the circumstances as they alter themselves. That is the man whom I would respectfully ask you to follow.

Congress Ideal

Now, beginning from the year 1857, I want you one and all to study in a sincere and unbiased manner the way in which the Congress has progressed in its own ideal, and the methods it has adopted ever since its inception. Instead of wasting your time upon studying the names of successive Governors and Viceroys, of the history of the different wars which were fought in the different parts of India with the assistance of yourselves, your money and your own blood, I think that you would do well to study the history of the Congress.

Since its inception, in this great city of Bombay—as it happens I claim a sacred association with the Congress, because in the very hall in which the first Indian National Congress was held, the hall of the Gokuldas Tejpal Boarding School, I first learnt the art of debate and we some 25 boys used to debate on the problems of the nation then with an importance, innocence, and ignorance all equal in themselves—that is from the year 1887 if you take your picture forwards, what do you find? They began with a moderate ideal. They began in an exceedingly modest way—I am one of those who have the greatest admiration for those who take first the smallest step, for it is by the same standard that I ask you to judge of the moral achievement of our last struggle—began indeed as you might perhaps remember with the assistance of two great Englishmen who believed that if freedom was their right, it could not be their monopoly, and that it should be the right of all the races of the world and particularly of the subject races—and began by claiming that some measures here and there of administration should be mitigated, should be ameliorated, should be improved and should be amended. Occasionally they asked for a remission of a particular tax, and occasionally also they asked that the Arms Act should be relaxed in those

districts which bordered upon the forests in order that the people might protect themselves from wild beasts. That was the Indian National Congress, and I well remember attending its numerous sessions for no other purpose than to hear those great fore-runners, those great pioneers of the Indian National Movement of to-day.

Demand for Swaraj

From time to time they grew in their ideas, and it was, I believe, in the year 1906, at the Calcutta Congress, that for the first time the late Dadabhoy Naoroji announced to the nation for the purpose of its consideration that our only salvation was not in asking for relief from this measure or that measure but in the establishment of what he described as Swaraj, but which we have since slightly improved into "Purna Swaraj." But it was also the year in which the Mussalmans, headed by His Highness the Aga Khan, waited upon the then Viceroy of India, Lord Minto, with a prayer that the Mussalmans were not likely to have any chance by way of a share in the political government of the country or its administration unless as a minority they were protected first by separate electorates and next by what we may call, dividing the loaves and fishes of office in order that the community might be adequately represented in the different parts of the administration. And it is by a curious coincidence that the two mounts arose at the same time cutting almost each other. The Indian National Congress conceived the idea of national unity, and the self-seeking Mussalmans of those days, apart from the bulk of the community, headed by the gentleman who headed that deputation to the Round Table Conference and who still heads it even to day, maintained that unnational attitude. It is a thing which requires to be recollected in order only that you may know where you stand to-day. What is the good of blaming Ramsay MacDonald? After all whatever he is or he is not, he serves his own country truly and

well. Can that be said of the other gentleman of whom I have spoken? That is the problem before you. That was in the year 1906. We progressed a little further until we came to the beginning of the last Great War. Perhaps on another occasion, I will give you the history of the Congress in a very different perspective as I wish to pursue only one subject to-night, and that is the Communal Award as it is called and the attitude of the Indian National Congress towards it, and I shall confine myself to only those facts of accredited history which can not be belied. After the year 1906, we come to the year 1914.

Pledges to India

In the year 1914 as you may remember the world was convulsed—"convulsed" is a poor word to describe the events which occured—with a conflagration in the West, a war not between the two sections of the western races—I do not know what Dr. Besant would have to say now, because she thought and at one time declared that the Teutonic races were destined to be the Governors of the world—between two cousins. That is history the true significance of which we do not seem to realise yet. Each of the combatants invoked their God in the name of a principle and in the name of justice to assist them in the same self-righteous, sanctimonious manner in order that each may succeed. But what was our share? We were undoubtedly bound to the British Lion's tail. That is where our part came in. We were told that that was a fight for freedom and I remember very vividly myself going about in company with an English friend who was then the Advocate-General of Bombay addressing a Bombay audience with a view to bring before them the significance of the issue of the great struggle in order that Indians might whole-heartedly share in the great struggle. From the town of Bombay right up to Ahmedabad, there was hardly a place which myself and my English friend did not visit, and we said in every place: "The Englishman pledges his

word that this fight is not merely for the freedom of Britain but it is for the Freedom and self-determination of all the subject races of the world." That was what happened in the year 1914 and I am not at all ashamed to acknowledge before you that in the prosecution and furtherence of the same object—I sincerely believed in the Englishman's promise —somewhere about the year 1917 I resigned my place in politics as a member of the Home Rule League in order to stand in the town Hall by the side of the then Governor, now the Viceroy of India, Lord Willingdon, because he pretended and professed that the War which was being fought was being fought for the freedom of the subject races. I believed him, and it is for him to say how far he was sincere in that promise, and it is for his race to say how far they have believed their promise.

Post-War Gandhi Politics

That was between the years 1914-18. Then followed another period in the history of the Indian National Congress. God willing, Mahatma Gandhi finished his struggle in South Africa. He realised for the first time the potency of the instrument of nonviolent voluntary suffering without retaliation in order that even the greatest unbeliever may be affected by the sincerity of our cause. He experimented with that instrument in South Africa in the cause of the freedom and right of a very small section of your and my brothers. It was about that time that Mahatma Gandhi began to acquire a certain amount of influence over and interest in the Indian masses. I remember very well the way in which he roused—that is his greatest moral work—the consciousness of the Indian people, brought about their solidarity and unity, the feeling of oneness in them notwithstanding their diversity, and the consciousness that if they only willed it their freedom was in their hands. At the Lucknow Congress I happened to be present, and one fine morning I was walking down from where I was staying to the place of the Rajah of

Mahmudabad where the elder statesmen of those days were staying, I saw Mahatma Gandhi who was then a humble Congressman—he was dressed in a slightly different way to what he is to-day—going about with his feet unshod. You are perhaps aware that Lucknow is one of those places where the winter is even more bitter than in many of the northern countries of Western Europe. I looked at his feet as much as to say: "Don't you feel the bite of the cold?" But as Providence always assists such men, a person entirely unshod with a bundle of faggots on his head happened to pass that way. Mahatma Gandhi simply pointed at the bare body of that man. He meant to say: "It is that man who represents the true condition of the masses of the Indian people, and it is no use your pretending sympathy with me. Your duty is towards that man and those whom he represents". And to-day, as a pure matter of actual assertion in life, he lives and dresses like that barebodied man that we saw on that bitter winter morning. That was many years ago.

Mass Awakening Needed

You remember that its lesson, its significance, is that the Indian people will never attain their goal by means of their national institution unless the masses are with them and behind them. That was the lesson which he came to teach and that was the lesson which he has made the business of his life to teach each one of us, if only we have the heart to understand and if only we have the spirit to live by, and not merely to learn as a matter of life and conduct. It was then that we began to realise that our struggle must take an entirely different form, must take a very different line and must assimilate within it the bulk of the people. There was a time when the Government treated the Indian National Congress with contempt and as not being worth any notice, as a body representing a few discontented and educated men—their

favourite phrase in those days was "the microscopic minority of India." Perhaps they were right. What all we did was to meet at the end of every year and pass a few resolutions. Our highest appeal then lay in forwarding those resolutions to the Viceroy or to the Secretary of State for their proper consideration. Our appeal since the year 1917 has been not in forwarding the resolutions to the Viceroy or to the Secretary of State but in making them known to the last peasant and worker of India. In other words we began to realise that our eyes must turn not outwards towards those who govern us, but inwards towards those who are fellow-sufferers in subjection. The deliverance must be sought in the suffrage of the Indian people and their support, and not in prayer to those whose business must naturally be and is to retain your body and soul and land as their property for all time. When the war was over we found that those pledges and promises which were freely and liberally given were by gradual stages broken.

Non-Co-operation Movement

Ultimately somewhere in the year 1920-21, the Congress for the first time under rhe guidance of Mahatma Gandhi made an effort to experiment with the great principles of non-co-operation and Satyagraha as the first steps towards lifting the inertia from the Indian mind that the Indian people were incapable of making any effort towards the achievement of their freedom. The history of that effort also is shortly told. By reasons and circumstances over which human efforts and human agencies had no control, perhaps a thousand or two thousand people joined in that great movement believing in the correctness of its principles. Another period of 8 years elapsed, and it was in the year 1928 that once more a similar struggle commenced in a small area in Gujarat by way of a protest against the enhancement of land revenue. At the risk of forfeiting all their properties, the peasants concerned took

a vow that they would not pay the enhanced tax so that they can atleast demonstrate to the Indian people that it was possible by means of Satyagraha to achieve their goal. Perhaps it is not known to many of you that particular Satyagraha actually achieved its narrow and immediate object and the Government of Bombay yielded to the pressure and appointed a Commission with the assistance of the Congress on a promise that there shall be an investigation into the matter and that not only would the enhanced revenue be remitted but that if the circumstances so required, there should be a reduction of the revenue. Mahatma Gandhi addressed a a letter to me which Sardar Vallabhbhai brought which he said "I wish you to give all your assistance. So far as the appointment of the commission is concerned, we have succeeded in achieving our aim. Though I am not sure that justice will be done, at least injustice may be prevented." And we went on for a period of six or seven months from village to village, and ultimately obtained an award whereby the whole enhancement was got rid of, and though the Government did not admit it, indirectly they agreed to a ten percent reduction of revenue.

Then followed the great struggle the history of which is too wellknown to require narration before people like you.

I was not a raw youth; at least not a man who is impetuously drawn into the struggle but a man who can be trusted to think. I am here to tell you in a very few words why the Congress takes up the attitude that it is taking towards the Communal Award. It has only a single purpose in view. We began to think in terms of history. We asked ourselves "What has Europe done during the last hundred years."

East versus West

The whole of Africa has been parcelled out as the properties of several European races more or less according

to their strength and power. Almost simultaneously they turned their faces further east. On account of mutual jealousies, Turkey, Persia and Afghanistan had to be left alone. Perhaps you are aware that in India itself and outside there were struggles between the Dutch, the Portuguese, the French and lastly the English—who are now masters for the mastery of India. They then went to Burmah, Malaya States, Indo-China and Java, and beyond that to what are called the Concession Ports, a large part of the Coast of China. They acquired all. Those races fought with one another in this land in order to become our masters. That is the history of the East as against the West of the last 125 years. Now what does it teach you? Our country was conquered only in order that the surplus and growing population, the pressing population of Europe may be fed. A willing, subservient race had to be discovered in order that they may be fed.

We learn from books on Economics—I myself taught it perhaps ignorantly as a Professor—that Free Trade is best to the world without realising its significance. Free Trade is best for that part of the world which has to exchange manufactured products for raw material. As I said in another place, the Englishman has only iron and coal with either of which a scientist has yet to discover the way of feeding human lives. Therefore that iron and coal has got to be exchanged for something which our great Motherland with its natural resources can provide. That is the relationship of the Indian people to the British race, and that is the relationship I want you to bear in mind in all political problems that you will be called upon to face. That is the reason why I venture to tell you that it is thoroughly patriotic of every Englishman here to find out as many causes of division as possible to safeguard his country's interests and to keep you down. That is the genesis of the document called the Communal Award.

Round Table Conference Idea

What happened then was that somewhere after the Calcutta Congress we in our innocence, began to suggest a Round Table Conference, believing of course that a Round Table Conference would be a proper solution to the Indian problem, and a Round Table Conference was called. It was called at a time the actual condition of which I do not want to describe. A Round Table Conference in the mind of an honest man is one in which representatives of one race sit with the representatives of another and honestly talk and say "notwithstanding all that you have done, is it not time now that safeguarding your interests to a reasonable extent, you will render back what is mine?" That is what I understand is a genuine Conference. Instead of that, in place of bread we were given a stone. In the First Round Table Conference which was called, people were carefully selected. In other words, they said "I am the judge, I am the prosecutor and I shall also nominate the counsel for the defence." That was the Round Table Conference which our friends, some of them men who pretend or claim to be authorities on constitutional history, attended. What you want is a patriotic insight and a sincere belief both in your cause and in what you demand. Men of conceited intellects were roped into the first R.T.C. The former stuck to the very end and have come back to the obscurity of their provinces, while the latter have come thoroughly satisfied with what their section of the community have gained. That is the genuine description of what happened in the R.T.C. That is also the genuine description of how the Communal Award came into existence.

What Malaviyaji Did

Mahatma Gandhi who thoroughly and genuinely believed in the honesty of their intentions came down from his high platform with all his gifts of persuasion so as to enable us to present a joint demand. Who were the people as

history now tells us, who rendered that solution impossible? I will give you the names without the slightest hesitation in my mind. So far as the Mussalmans were concerned, no name need be given because every one of them, with the honourable exception of two friends, the late Sir Ali Imam and Sir Mohammad Shafi belonged to one flock. So far as the Hindus were concerned my friends Pandit Madan Mohan Malaviya and Mr. Mukund Ram Rao Jayakar declined to agree to any settlement in order that we may solve the problem ourselves and present a joint demand. And it is a matter of very great pain to me that to-day Madan Mohan Malaviya stands outside and dares stand outside the Congress for what he calls the great injustice done to the Indian people. Will you ask him what he did or what he omitted to do in order to solve this great problem of the Indian people? He is one of those who were primarily responsible for the position under which the Communal Award became a necessity. I appeal to him once more in the name of the very justice for which he stands to retrace his steps and to once more enter the Congress fold into which he deservedly and honourably stood for the last 50 years. That was the position in which the Communal Award was given and now we are face to face with it. We all agree—it is unnecessary for us to say we agree—that it is designed to serve one purpose and one purpose only, and that is to divide India. How can you otherwise prevent two sections of the same people from agreeing unless you say to one "I give you a little more than what you deserve and you stand by my side." But we are not going to get anything by simply crying from the housetops "Oh, it is a great injustice to the Hindus?" Who denies it? But such sort of inequalities will always remain. It is perfectly futile for any man of decent intelligence to go to a man who has advisedly done injustice and say "Please you have done injustice, kindly change it." Well all I can say is that I should be a veritable fool if I did it. The Congress says it is essentially a domestic question, and it will look

to no outside agency whatever for its solution. That is the first attitude of the Indian National Congress on the Communal Award. It is up to us to solve the problem by an appeal not to the man who created that injustice, but by an appeal to our own brothers who are supposed to have profited by the Award.

(A voice: Who is going to appeal to an outside authority?)

Mr. Desai: Pandit Madan Mohan Malaviya supported by Sir Harisingh Gour proposes to lead a deputation to England for a decision regarding the Communal Award, and if my friend does not know it is not my fault.

Congress and the Award

The Congress says "We neither accept nor reject the Communal Award." Why does it say so? If the Congress rejected the Award, it would reduce itself to a Hindu Congress, and if the Congress accepted the Award the Hindus will say that the Congress stands for Mussalmans.

Pandit Malaviya was organising his view that the Congress is taking up a wrong attitude in the attitude that it has taken towards the Communal Award and that it was unjust to the Hindus and said, "I shall lay down my life in order that the injustice may be removed." Of course he was thoroughly sincere in what he said. It is easy to say "I will lay down my life" but it is more difficult to achieve what you want to achieve. One of the greatest Muslim leaders of India to-day happened to be present at the discussion and after hearing this he said, "I agree with you, Panditji that we must remove the injustice, but I appeal to you to tell me how you are going to remove the injustice by the steps that you are taking. If you really want to remove it, your place is not with the Nationalist Party but it is with us. You had better go round with me from

village to village, you and I, one a Hindu and the other a Muslim leader will go to every village and explain to the people the injustice and how it was brought about and see what we achieve. On the other hand consider what you are doing. You may capture perhaps ten or fifteen seats—though it depends on the voters—but will you appeal to the Viceroy! These ten seats represent the injustice, the wrong which should be remedied?" It behoves a national institution a national leader not to be weighed down by small injustices between two sections but always to be governed and guided by a higher motive. It is indeed possible for Hindus and Mussalmans to put their heads together and come to an agreement without the intervention of a third party, and that is the reason why the Congress has adopted the attitude that it has taken up to-day. It is therefore my duty as the General Secretary of the Congress Parliamentary Board to ask you to accept the view that the Congress has taken in your name and according to our lights and understanding, and in the name of the ultimate benefit of the nation. The attitude being that we shall not appeal to any outside authority of any kind or sort, for as soon as we do it we kill ourselves as a nation and implicitly and tacitly surrender our freedom into the hands of outsiders which, as a Congressman, I shall be the last to see.

February 1935.

I would have been wanting in a sense of duty if I did not associate myself in a few words with the Resolution which has been moved before the House. And I am the more impelled to do so by the speech that has been just concluded by the Honourable the Home Member. I am not merely referring to his manner, not merely referring to his words, but referring to the spirit which was behind it. Undoubtedly it is not for a man like me to congratulate him. He, being perhaps a very clever painter, put into the background, as he calls it, incidents long past, then translated them into generalities and then turned it into a bogey. That is a kind of picture that is not going to deceive any man who has got a pair of eyes. The only other reason which impelled me to associate myself with this Resolution is the fact that perhaps with the single exception,—or not even with the single exception,—of the Honourable Member from the North West Frontier, I was perhaps the last man who was closely associated with Khan Abdul Ghaffar Khan before his last conviction and incarceration, for a speech which was unearthed some three or four months after it was made. It became almost a problem as to why that speech was unearthed and what was in it. So far as Government is concerned, there is a very salutary provision, advisedly made in the Code of Criminal Procedure, so that the provisions of section 124-A may not be put into force unless they are required for a purpose of their own. Somehow or other, for a long period after that speech was made, it never occured to Government that there was anything in it to prosecute Khan Sahib upon it; and yet one fine morning in Wardha he was arrested for a speech that he delivered before a Christian association only for the the purpose of giving an honest account of what had occured,

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movement which he represented and of which he was
leader during the three or four years that he was associ
with it. The first question after his arrest that he a
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RAILWAY ADMINISTRATION IN INDIA

February 1935.

Mr. President, I have the honour to move:

"That the demand under the head 'Railway Board' be reduced to Rupee one."

That demand falls under two heads as appears from the papers presented to this House and consists of two items—Rs. 8,25,000 which is votable and Rs. 4,30,000 which is non-votable. I feel, Sir, a certain amount of embarrassment not on any personal or public grounds, but beacuse of the situation and the atmosphere of this Assembly where it appears that one cannot speak on a motion without some form or other of a veiled comment not intended always to be a compliment whenever you happen to make an effective speech. On the first occasion when I spoke here, the Leader of the House, while complimenting me on the possession of a certain amount of diction, which is not much of a compliment, told the House a story.

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He said to the House after I sat down that he was reminded of some address to a jury either in France or in Canada—I do not know which—where the jury was prepared to vote for him that day. But they retired for the evening and the next day, when they came back to the House in the jury box, they voted against the proposition. All that I can tell him is this that the jury must positively have been drugged over night to forget all that the logic of that argument had impressed upon them at night and I am not at all surprised at the way in which the matter struck the Honourable the Leader of the House. Knowing as I do, that process of drugging, otherwise called intoxication of power proceeds day in, day out, with the result that I am quite certain, diction or no diction, reason or no reason, we know exactly what will happen at the end, in spite of the vote of this House. That is the protest that I enter on the manner in which everything is voted on by this side of the House is received by way of response from those who are resposible for the government of this country. That leads me on to the discussion which is the subject of the cut motion that I have the honour to move.

History of Railways in India

In order to be able to appreciate the grounds on which I am moving that, I must give the House a very fair and brief history of the growth of the railways in this country, and so far as I am concerned, I shall set forth the reason at the outset. For every discussion in this House there seem to be on one side or the other two complexes. Whenever this side of the House or any other reasonable unattached person gets up and makes a proposition, it is said to be the result of a political influence. Whenever the other side of the House moves a proposition, it is said to be founded on an entire absence of emotion and governed only by economic considerations. That seems to

be a fair division of argument in so far as the other side would pretend that we should have it. And it is for that purpose more than any other that it is my desire to tell very briefly what is it that the Indian Railways represent. In the first instance, I need hardly remind the House that Lord Dalhousie, the last Governor General before the assumption by the Crown of the Government of India and the father of most of the important railway systems in this country, made no secret whatever in all his Despatches as to the purposes for which the railways were to be constructed. He said, at all events in those days,—undoubtedly very disturbed days indeed—that the purpose that he had then in view, apart from the development of India and the Indian commerce and the Indian communications, was the military and political influence for the use of which the railways must be necessarily put. In fact, he went further and said that if the proposals that he had sketched out turned out to be unremunerative, it did not very much matter from the point of those who govern the country. During all the years that have followed, it is a matter of common knowledge also that the Indian tax-payer has paid whenever the railway budget was not properly balanced. I am saying this only for the purpose of showing that it would be no apology on my part if we say that if the words "politics" has any meaning in connection with any of our actions or votes, we are not only not in any sense ashamed of it, but desire and say that if "politics" means this that the retention of power by Government, as it now exists, is "politics," the demand of the devolution of that power to us is equally "politics". They say that we say what we say because of political influences when all time the same purpose notwithstanding the veiled economic arguments is shown by them. It is nothing more and nothing less than the retention of the actual political power which they possess. So that, none on this side of the House will ever be ashamed to assert that if political influence is necessary as a necessary corrective for the

purpose of running our greatest national asset, we shall assert in the most unequivocal terms. So that, it is perfectly clear that, from the point of view of those who started and who initiated and who today are governing the country, though they may be responsible to their principals in England, they did not raise the railway construction in India except for the primary purpose, in those days, undoubtedly there were three purposes in view, the political, the military and the expansion of the country and also I hope every Englishman here will remember coinciding with the necessary and the greatest assistance that the British industry has ever received from any foreign country in the shape of the purchase of everything that they had then begun to produce. That is the origin of the railways in India. We do not, therefore, deny that if we find the railways in our hands, having as we have undertaken the obligation, and I dare say I am inclined to emphasize that when we speak as "we", it is as contrasted from the "we" that is spoken on the other side, they representing the persons who have never contributed a single pie of what we call the assets of the railways, while we on our side have provided—we and our forefathers have provided—and taken upon ourselves the burden of the sum of 800 crores that now represent the invested capital in the railways of the country. It is "we" on our side that contributed to the assets of the railways, because the "we" on the other side mostly travel on free passes and it is "we" on our side who provide by way of purchase of the services, either by way of carriage of passengers or by way of freights, it is we that are providing a sum of 100 crores roughly speaking annually for the purpose so that the particular institution may be maintained. Therefore, it cannot be said that in the consideration of this subject, any other consideration can enter except of the "we" whom we are here to represent in the teeth of opposition from the "we" on the other side of the House and notwithstanding the arrogance with which the "we" on this side of the House

are treated by the "we" on the other side.. It is we who undertake the obligation of having to discharge the debt of 800 crores, it is we on whom is imposed from time to time the duty of providing the annual interest, it is we who in some form or other provide the sum of 100 crores for the purpose of the maintenance of the railways, and, therefore, we alone have the right to claim to have an interest in its management, in the formation of its policy and in every form of its control (Hear, hear. (Applause.) It is for that purpose, Sir, that I have moved the cut in the form in which I am moving and if any evidence were needed, the 340 odd cuts on the agenda paper that I see is sufficient evidence of the disapprobation of the acts of the Government in regard to railways.

Government of India's despatch

Let me give you, Sir, a further history, a history which is more or less uncontradicted. After the Simon Commission report was published, it was realised that the present way, in which the Indian railways were being managed, was far from satisfactory, that under any form of constitution, whatever it may be, there must be some form of Ministry of Transport who really would be the proper authority for the purpose of guiding the policy in the matter of railways and responsible to this Legislature. It was in that hope and in that belief and in that direction that a change was asked for and was called for. Yet what happened? In 1930, as I have it from the reports of this House, a Despatch went up in September, 1930, from the Government of India to the Home Government containing a proposal for the establishment of a Statutory Board in India, and among its recommendations were the following: (1) to render prompt and adequate service to military authorities in times of political crisis, (2) to safeguard the enormous capital sunk in Indian railways. (3) to guarantee the services of the higher officers in the railways appointed

by the Secretary of State, (4) to ensure the future recruitment of Europeans on a larger scale on military grounds and (5) to maintain the interests of the Anglo-Indian community in the railway services. (Laughter.) This is the Despatch, Sir, that went in answer to our demands. We have always had the misfortune—we are asked to come here as we have done in a spirit of co-operation and what is the meaning of co-operation? Are we merely asked here to sing hallelujahs to all that the Government say in order that they may have the monopoly of wisdom and power and dictation, are we here to listen to all that they say without any sense of responsibility? Some of us are surely persons who have a responsibility and who have understood the question, some of us on this side of the House might easily be on the other side of the House if only we sought it, and therefore, the monopoly of wisdom cannot be claimed by that side only. That is, however, the position in which we stand today. We asked that a Railway Authority should be constituted in order that it might be responsible to the House. In place of that, what was asked for in the Despatch to the Secretary of State was the Railway Authority for the purposes that I have now read out. But that is not enough. Having done that nothing more was said. Nothing further until, the Round Table Conference came. When the Round Table Conference came, the Secretary of State began to think that in the event of even the mere pretence of transfer of power, let us see to it that every department that is of any value (to the extent to which we can do it) on some pretended ground of economics whether we cannot see that we shall practically withdraw the asset, as I said of 800 crores in capital and 100 crores revenue equal, as one of the Members then pointed out, to the provincial revenues of all the provinces put together, let us see whether we can not take it away from the practical influence of this House or its legislative and other influence: Hence it was that a consultative Committee was held and that Committee ultimately put

forward certain proposals. It was said that those who went from this House were responsible for the construction of these proposals, but it also appears from the reports, as I have it before me, that every single person including my Honourable friend, Mr. Jinnah, all said that they were never really asked to consent to any such method of constructing a Railway Authority, in fact in the Federal Structure Committee, it was a surprise sprung upon everybody without any such suggestion excepting the one coming from the Maharaja of Bikaner and that is the real origin to which I shall presently advert.

Railway Board has failed to serve its Purpose

Sir, the point at which I was addressing the House was as to what the position was of the manner in which the railways are being administered in India. I have been informed, and I accept it from my friend, Dr. Ziauddin, that following a German precedent, it was somewhere in the year 1913, that the management through a Railway Board was constituted for the purpose of managing this asset of the Indian people. 30 years have gone by since and the question now that confronts the House is how far and what has that Railway Board done, and if I am in a position to tell the House and show to the House by the progress or want of progress as the case may be, this House would be justified in saying that that method of management is clearly not one conducive to the betterment of the Indian asset, and, if that is so, I shall also be able to invite the House to-day to say what they want (apart from any question of policy) by way of substitution for what after all have failed to serve its purpose. Take the several functions that the Railway Board has discharged, and if those functions have been discharged in a manner and to an extent which are such that they do not deserve the confidence or the endorsement of the House, it would be a perfectly lawful thing for the House

on that basis to say that, therefore, further supplies for that particular form of management should not be granted, It is after all merely a question of a point of view and had it been realised that would have been as easy for me to say exactly what I am saying now in one form or the other, the House would probably have been spared a three quarters of an hour of discussion. Take the functions of the Railway Board as they have been discharged and the manner in which they have been discharged. For that purpose you cannot escape looking in broad outline at the asset and how it has been administered, and, here, even at the risk of repetition, which has almost been forced upon me, I am bound to point out how that asset which is administered by them came into existence. As I have already pointed out, we have not merely borne the actual cost of that asset, but we have also borne the amount of guaranteed interest to the extent to which that guaranteed interest was not reached by reason of the working of the railway for many many years, and I have it from some expert authority that that alone would probably come to some 300 crores of rupees or so. Whether that is right or wrong, the fact remains that in every sense of the term, whether by way of maintenance or by way of its establishment, every single pie has been provided by the Indian tax-payer. And what has been done for the Indian people at large in their character as those who availed themselves of the services of this Railway Board? If they have not done what they ought to have done, we submit with respect that that is a good ground for their condemnation by a refusal of supplies.

Indianisation in Railways

In the year 1924, when the question of the separation of the Railway Budget from the General Budget arose, a discussion took place. The first and the foremost thing which my friend, Sir Purshotamdas Thakurdas

pointed out was—and it becomes very relevent by reason of the interjection of one Honourable Member in this House that if those who represent this part of the House were in-charge of Railways, every single train would be derailed. If that is all that the Railway Board have done by way of availing themselves of the training, of the talents of the individual talents of this country, nothing else would be required for their condemnation. And here I am reminded of what Lord Lytton said:

> We do not employ Indians more because they are not qualified, but they are not qualified because we do not employ them more."

(Hear, hear.) Now, which of the evils are you going to choose? Are you going to say that the present policy of the Railway Board is to continue in a way whereby they should be able to say that from the pointsman up to perhaps in this present case the Member-in-charge are Indians and still the Indians as a body are unfit to take over charge of this particular asset of theirs and to manage to the best of their ability and exclusively for their interests? If, therefore, the railway policy has been so to employ Indians or perhaps to put the real complex, as to exclude Indians from understanding the management of the railways and training themselves for the purpose of their own asset, what greater condemnation do you want of that body and its right to continue any longer? (Loud Cheers.) Sir, the first and the foremost point I make is this. It is not merely the small point of Indianisation, which undoubtedly is condemnation itself. Sir, I have never heard in any country whatever of "Britishisation" or "Frechisation". How does it happen in this land that you come across every time the question of Indianisation either in the Army or in the Railways or in any other kind of service? It comes from this that our asset belonged to somebody else and we are maintained unfit, at least according to the continuous expectation, the continu-

ous assertion of those people that we are unfit to manage the railways. As it was pointed out in 1924, Sir, notwithstanding the establishment of railways beginning somewhere in 1865 and onwards—a period now of some seventy years—it is said that the Indians as a body and the Indians as individuals are unfit to manage the railways. Sir, is it their intellect that is wanting? Is it their capacity that is wanting? Or is it the opportunity that is wanting? Is it due to the fact that it suits those who govern you and dominate you to see that you shall not learn either the art of Government in general or the art of the management of the railways in particular? Sir, if that is what suits them, are we not here to say that they shall not function any longer if these are the principles which they have adopted and persevered in for a period of some seventy years? Sir, it is easy to produce statistics showing a 2½ per cent. or a five per cent. increase here and there, glibly enough, but why, in all conscience, is then this mere pursuit of percentages when the property is all ours and when the provision and maintenance of it has to be made by us? It is for that reason, the first and the foremost ground on which I seek to support the cut and on which I seek the vote of every section of the House —namely, that the Railway Board throughout its existence of thirty years has failed to justify itself, has failed in its professed object of training Indians in the art of the management of their own assets. And if that time has not come, why has it not come? I know in other countries what had happened, and I dare say that within the limit of my time it is not possible for me to give a history of the growth of railways in other countries. Sir, after all is said and done, the locomotive itself is an invention of not more than eighty years; and if it was possible for every self-governing country in the world, including Japan, to be able not only to manage its railways, not only to build its railways, but to build up all its ancillary industries, so that it might not be necessary for them to buy

and spend outside the whole of the money of its tax-payers earned under the sweat of their brow, to be paid only the wages of unskilled labour, so that the skilled labourer of another country may profit, how has it happened that India is the only exception to the ranks of these countries, and notwithstanding the mechanical knowledge we possess, notwithstanding the intellect we possess, how does it happen in this country alone that we have not arrived at that stage, and how is it possible alone in this country for a Member of this House to get up and raise a derision at our expense that, if we were in charge of of the management of railways, every single train would be derailed? Sir, it is not a matter of amusement, but it is a matter of serious and earnest consideration. Sir, I am one of those who know that apart from any other question the Japanese Government, while placing their contracts, make it a condition with foreign manufacturers that boys and men trained in their schools of technology shall be taken into confidence in the process of the manufacture of every kind for which a boy is so placed; but it is this country alone in which it is not possible. A guard may run a train, an engine-driver may run a train, an absolute ignorant and illiterate man has sufficient intelligence in this country to be able to drive a motor car with but a little mechanical instruction, and yet it happens that in this country alone we are to be told that no form of railway management is possible except by some sent out as experts at our great expense. Sir, it is easy to raise a vicious circle; you won't let them have the chance of acquiring training and experience as an excuse for refusing to make any advance. That is the vicious circle which has always been started by means of which this greatest asset of ours has been taken out of our own hands and plausibly supported for the sake of the policy that has gone on for the last thirty years.

Take the next. Why should it be possible that the

word "Indianisation" should be a word at all in any language? I never thought that the services of any country should not belong to itself! I have never heard of "Japanisation", "China-i-sation"! Sir, the very implication of the word "Indianisation" shows that the Railway Board and the executive authority which they derive from their masters stands for this that India shall not be able to manage even her own assets, let alone her own Governments. Sir, the word "Indianisation" should be scored out of the records of the debates of this House until the time arrives when Indians shall manage their own affairs, when Indianisation shall not be a word of process, but shall be a word of actual fact, and then alone, Sir, the Members of this House will ever be satisfied. And as regards "derailment", well, I will only say that it is a condemnation if it is true, and if it is untrue, then there is no reason why Indians should not manage after all the bulk of their services, apart from those who claim some sort of secret knowledge, some amount of esoteric knowledge, which I do not believe they have. Sir, I am one of those who have been in close touch with the Railways as counsel for most of the lines—the G. I. P., the B. B. & C. I., and the E. I. R. included, and I have never been unable to understand a single problem presented by those who call themselves experts in order that their point of view might be presented. If this is so, then it cannot be for want of talents that we are kept out, but we are kept out because it is their desire to do so. And if that is the method to be pursued, then certainly that is a valid ground on which the Board ought not to be allowed to function at least so far as we can. I am fully conscious that there is the power of certification, I am fully conscious that there is a greater power of ruling the country, but is that any reason why this House should be subjected to the indignity of offering its praises for that method of management? This does not amount to the condemnation of my Honourable friend, Sir Joseph

Bhore, but it is a condemnation of the system under which he, being as good an expert as anybody else, is unable to secure that the race of those who manage the railways should be of the race to which he belongs. That is the first condemnation.

Abuse of Powers

Now, I come to the next. What has the Railway Board done in the matter of the spending of our moneys in such a way that Indians alone and their industries may be benefited. I was reading only the other day the book which I have here and which I trust the experts on the other side, if they have not read it already, I am sure would do well to read and digest. Sir M. Visvesvaraya, than whom it is difficult to find a man of greater painstaking ability, and who has a greater engineering knowledge than almost any man who sits on the other side of the House, has recently published a book called "A Ten Year Plan for India", and he suggests in what manner the railway revenues of India can be utilised for the benefit of this country. The first and the foremost point that he makes is this that it is no use pretending that we are going to give India a chance of becoming self-sufficient. We have had many lip-promises, but may I ask what stands in the way of any Government, however constituted, that these moneys cannot be so utilised as to establish workshops and industries in this country so as to manufacture every single article that is required for the purpose of railway management and railway lines? What is it that prevents them from constructing a locomotive? If Japan could establish an industry for the purpose of manufacturing everything long after we began here in this country under a foreign domination, what is there that we cannot establish? You have got the workshops here and it is only a question of their extension and of spending more money in your own land. But that is precisely not

the object. The object is this, as I shall presently read out to you from an admission made by a Member of this House himself, who belonged to the other side of the House, when he went on a commission in England somewhere about the year 1925. He said this to a British audience: "We have a programme of so many crores of railway expenditure, and please be certain that in so far as that amount is concerned, the bulk of it is going to you". It is precisely the kind of thing that we are told with regard to the safeguards, a matter on which I do not wish to dilate. That is not the kind of politics and that is not the kind of method by which we are going to be treated. Sir, I do not mind a naked irresponsible despotic Government, because then the issue is clear, but it is this form of supposed evolution without devolution, it is abuse of powers which they actually possess that I am here to protest against. There cannot be any objection either on account of talent or on account of mineral or human and other resources in this country to manufacture every single thing that is necessary and to spend all the money for the benefit of this land. I am fully aware that a part of that money annually expended will not all be paid to British employees. I am also fully aware that a part of it would be paid to a certain class of Indian labourers who are employed in Indian workshops, but how does it happen that we are not in a position to spend the whole of that amount in this country in order to secure an all-round progress of the country? If it is unnecessary to raise moneys from outside and if you have the money, why not spend it for the purpose for which it is intended, namely, for the growth of the industries so as to make India self-sufficient? There are countries in which coal and iron are produced, and it is a well-known fact in chemistry that coal and iron cannot be eaten by man, and, therefore, it becomes a necessity for them to sell that coal and to sell that iron and to sell the combined manufacture of the two in order to buy raw mate-

rials for food and other purposes, for they are the necessities of existence. Thank God that it is we who provide the raw materials and the coal and iron have continued to come in this land in crores and crores of tons during the last 60 or 70 years. That is how we have been treated in the matter of railway administration. And are we to be told on a petty point of objection that it is not possible to raise an objection founded on the very main ground, namely, that the Railway Board has not done well, has not done fairly by the country, whose resources were placed at its disposal.

I next come to another question which is also covered by it. There is a very eminent man who sat here for many years. He said—and very rightly said—(and in order to remain within the limits of my time I can only state the proposition. If any further discussion or elucidation is required, my friends may take it from me that I am not merely borrowing copy-book maxims):

> "If I had only the complete control of the tariff policy of this country and a complete control of the railway administration by way of arrangement of rates and freights, I shall be able to organise every kind of industry in this country in a period of some ten years."

I think he told the truth. But we fully know that we are not going to have a real control of the tariff policy of this country so long as the present administration lasts, and it is for that purpose that I have come here to express our disallowance of every single pie that is spent upon the administration of Railways and which has reduced the Indians to the pitiable condition in which we find them, notwithstanding the fact that every single rupee for that purpose is raised from this very soil. I was told the other day by an Honourable gentleman, who, I find, is absent today. He said that the Civil Services think in a "detached" way. I congratulate him on that expression, but I believe that he did not mean what he said. If by

detachment is meant unattachment, inconsideration of Indian interests, I think the Civil Services do think and talk and act in a very detached way. But, Sir, that is the very last thing that a self-respecting nation can tolerate, and so long as that virtuous indignation lasts, salf-respect lasts, there is some chance and hope that we shall be able to get rid of an administration that will not take us into its confidence and will not work exclusively for our advancement. Therefore, it is that I move this motion, firstly, on the ground that the Railway Board has done little or nothing towards training Indians for taking charge of their own affairs and their own economic assets. Secondly, on the ground that they have done little or nothing towards the spending of Indian money for the expansion of Indian industries so as to make India self-sufficient.

ON QUESTION OF M. L. A's PRIVILEGES

22nd January 1935.

Detention of Syt. Sarat Chandra Bose.

Mr. Chairman : I am glad of the assistance I have got of the well-known book which the Hon'ble Leader of the House read out as regards passages which deal with the growth of privileges. Questions which arise as regards this case are perfectly clear and are also capable, I respectfully submit to the House, of an equally clear solution.

It is not as dry in the sense of impossibility of solution, as the Hon'ble the Leader of the House would have it. He read to you, and I am glad he read to you, that the privileges of the House can arise by what he called Common Law, custom of the House and precedent and of all others, I emphasize, precedent more than any other.

In the previous case of Mr. S. C. Mitra, though the Government of India failed to respond to the vote of this House, a precedent has fortunately, already been created by this House, in that by its vote it expressed that the member who was then detained ought not to have been detained. That was the opinion of the majority of this House.

The question is not whether this House has a privilege in another sense of the term. There are two senses in which the word 'privilege' is used. One is the privilege of the House, as a supreme court at the bar of which an offender who commits a breach can be called for explanation, and it is a pity that it is that privilege which was made too much of without distinguishing between the privilege of an individual member and the privilege of the House in inviting before it the offender.

Two Things Implicit

I, therefore, ask the House to bear in mind two things which are implicit in this matter. The privilege of the

House in so far as it arrogates to itself an authority to judge, an authority to enforce as against an offender is one matter. Privilege of the House in so far as an individual has rights, which may or may not be respected by the Government of the type that we have in this country to-day, is another matter.

I come, therefore, to the second privilege, which is more important and which is the one in issue now, the privilege of the individual. Privilege of an individual arises by way of implicit privilege inherent in the very position to which he has been elected under an Act of Parliament and notwithstanding anything that the Honourable the Leader of the House may say about a person being arrested on a charge of murder, let us only confine ourselves to the question of the facts of the present case.

"The fact remains that it was competent to the framers of the Act of Parliament and the Rules which have been made under it with the sanction I presume, of the Secretary of State to add another disqualification to those which are now prescribed for, indeed, it was not unknown at the time of making rules that there are many acts in this country which have been described, to use a hackneyed phrase, as the most atrocious of the law-less laws that exist.

The Omission

The preamble of Regulation III of 1818 says: 'It may occasionally be necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding'. So that it was well known to the framers of that Parliamentary Act that there were Statutes of this character in India and the best way for them, therefore, was to raise a disqualification that any person interned under such an Act should also be disqualified so that a constituency, the electors who wish to exercise their privilege to return him to the House in order that he may do his duty may well know that he is a disqualified person.

I say that this was omitted not merely as a matter of inadvertence, but supposing it was, how does the law stand? As the law stands, the Act of Parliament has led the country to believe and therefore every constituency to believe that any person under detention is not a disqualified person and, indeed, it would be a travesty to say that if he is not disqualified to stand and properly elected there is still some other reason why he may not be allowed to exercise the privileges of serving in the House.

Inherent Right

I ask every section of the House notwithstanding legal subtlety, a narrow, dry question as my friend put it, not to surrender their inherent right as members of this House. For the Act of Parliament does not purport to say and does not dare say that a person so detained is a disqualified person and may not be elected to this high office. That is how, I say, that in the Government of India Act itself the privilege is implicit, but the matter does not rest there at all.

I think the question was rightly put by some Honourable Members to the Leader of the House—if he means to say that the only way in which any privilege can ever arise is by its being put into the Statute. It is not a question of borrowing the privileges of the House of Commons for Members of a body like this. I have often been told in legal history that rights arise at Common Law. Let us in this House start the commencement of that great Common Law of this land by creating the privileges of this House and by following a precedent, which has already been created by this House.

Defiance by Executive

I know very well that that particular claim of privilege, that particular demand is met with a defiance by

powers which undoubtedly are exercised by the executive in this country, for we cannot forget, and we must not forget that it seems to be (and it is a very unfortunate state of mind) in those who govern this country at present a sort of continuous hostility between the Government on the one hand and the rights and privileges of the people on the other.

Such difficulties do not, and cannot arise in any other country. The fact remains however, that such a call would never have been met in any other country with defiance and Sir, I appeal to you that such defiance is not a sign of courage. It is a sign of growing diffidence not to allow persons otherwise properly qualified and properly elected and otherwise capable, to come and give their assistance to the House which they are entitled to give and which they are capable of giving.

And may I point out to the Honourable the Leader of the House that even where a man is convicted of an offence, if a summons is sent from a court of justice, he is brought—undoubtedly under guard—and in aid of justice even a prison door is opened and he is brought to the bar of the court in order that he may assist in the administration of justice. And am I to be told, and is this House to be told, that a person who is not convicted of any offence but is merely detained by an Executive order has a lesser privilege to come and assist in as great, if not a greater purpose than that of assisting in a court? And I ask this House to say Mr. S. C. Bose has a privilege higher, greater, more sacred and more useful to be protected.

CONGRATULATIONS TO SIR ABDUR RAHIM

24th January, 1935.

Mr. President, if I am the next in order of time in tendering my congratulations to you, they are nonetheless

in the discussion of this all important question—at all events, the first most important question which has come before this House. I almost wished, when the Honourable the Mover in charge of the motion was speaking, that I had on my side of the House the advantage of that facile and subtle mind to advocate a juster cause. The fact, however, remains that we have to struggle against some of the sophistries arising out of the brightness of that intellect. I do not wish to refer at any length to patronising speeches, more or less made after a study in a school of rhetoric, attempting to tell us what our business is. I hope and trust that we understand what we are about and shall carry it out to the best of our ability. There are only two questions which arise for the consideration of this House in discussing this document which has been called the Indo-British Agreement. For my own part, I propose to call it the document in question, for I hope I shall give reasons enough to satisfy the Honourable the Leader of the House and his neighbour, the Honourable the Mover that in no sense of the term could this document be ever called an agreement either in the sense of law or in the view of common sense. The questions are first what are the essential features of this document, what is the necessity for it and why it was carried out in the manner in which it was carried out without the smallest consultation with the commercial interests of this country and also on the eve of the inauguration of the new Session of the Assembly. I wish to assure the House, I have not, at all events that suspicious mind which one of the speakers referred to. The very fact that a man smells and speaks too often of suspicion leads me to suspect that it is his mind which is at the time brooding on that disease. So far as I am concerned, I am prepared to take every circumstance into account and come to a reasonable conclusion which the facts warrant. But I have a shrewd suspicion—using that word in the very ordinary sense of the English language of shrewd belief—why the agreement was signed on the 9th January was that it

was well known to the agents of the British Government out in India to wit the Government of India (I am merely borrowing an expression used by others and almost acquiesced by those on the other side of the House) that they had realised that if commercial, industrial and other interests concerned in this matter had been consulted and had been respected, this Agreement would have had to be abandoned. I have also a shrewd suspicion that it was realised that the days of unrepresentative, somewhat docile, Assembly, pretending to contend but always conceding, had passed. It was those two reasons which explain beyond all argument, reasonably and clearly, as to why this Agreement was signed on the 9th January without consulting the trade interests and without waiting for the assembling of this House. When agreements are entered into concerning trade, concerning even labour, and also the consumer, I have yet to be told that any Government worth the name, be it the agent or principals, that they would not, before entering upon any such course, consult the interests concerned. Were not the British interests all the time in touch with the Right Honourable Mr. Walter Runciman before this Agreement was arrived at? Sir, it is not a mere act of courtesy. It is a recognition that the monopoly of guarding the interests of India, of understanding the repercussions of trade agreements cannot possibly lie within a few heads on the other side. After all, the effects, the resultant consequences of the Agreement have got to be borne by the country, be it trade or be it the consumer, and, with all solicitude for them, I trust that it is more than a formality that is required that they should always be consulted: and if there were no other reasons, I venture to say that an agreement so arrived at must excite the reasonable suspicion of any thinking man.

No bargain here

Coming to the question whether this document

can be called an agreement or not, I shall ask myself what I might have asked you, Sir, had you been in the place that you occupied before you took to public life. There are at least two main factors of every agreement if it is to have any value. Has this document in it the element of reciprocal consideration, and has this document been arrived at by persons, as to one of the two high contracting parties of its own perfectly free will? I thought those were two elementary things entering into the examination of every agreement and the Honourable the Leader of the House will, I am quite certain, have the sympathy of everyone of us with him when I ask him whether, examined in that light, it can fairly be called an agreement. Sir, there is neither "consideration" nor that free will that is required for the purpose of its being called an agreement —if that term is not to be abused. I say that the failure to examine this in the light of what the country would have desired, is to be deplored, and especially so considering the fact that nobody from the Indian side ever initiated, nobody ever requested, nobody ever approached the Government of India to undertake this somewhat thankless and, as I understand it, a necessary evil task. We are told by the Honourable the Mover to exclude politics out of it altogether. But did he not himself give away the show, when he himself, at the end of his opening speech, said that there are three considerations that moved from the side of the British Government, *viz.*, clause 5 and 6, and, furthermore, the third, namely, that "if you set your seal of approval to this Agreement, you will have rendered the safeguards negatory"? Sir, I never thought that the safeguards were anything but one of the main political elements in the Constitution yet to come. If, therefore, among the considerations that he himself pointed out was the advantage, of a political nature, then, let me assure him that so far as those, whom I represent are concerned, do not put that value on the non-use of those safeguards so as to make it a matter of bargain. Taking, therefore, the

Agreement as it stands, let me turn to the terms of the Agreement itself, for, after all is said and done, who is there more competent to judge of what we have gained or what we have lost? Have we not passed the stage of tutelage when some body else could speak for the industrialists and the commercial interests of India but ourselves? Sir, I regret very much that it was with a certain degree of arrogance that my Honourable friend, Mr. Mody, spoke in this connection, but I say he did not realise, as he ought to have realised, that there were telegrams pouring in from every single industrial concern, including the one from the Federation of Indian Chambers of Commerce,—and if he thought, as he seemed to, that those were all contemptible documents, if he thinks they are contemptible messages emanating from contemptible Chambers, then Mr. Mody would have to reserve his judgment for his own consumption. What the country is concerned with is the judgment of persons who really have a stake in the industries, and what is still more important is that the consideration of the rights of the consumer are trotted out whenever every other argument fails, but, I ask, who else is the consumer but ourselves and those who have returned us to the House. But please do not trouble if we believe that, in the common and larger interests of India, our industries shall grow by means of protection, our people are quite prepared to pay the price in so far as that is concerned. Both the producer and the consumer are behind us in the denunciation I have given of this Agreement,—the first and the foremost, the trade and commercial and industrial interests, and, secondly, the consumer, who is fully aware that for any advancement of that kind, in order to contend against the continuous exploitation by other countries, it is necessary to bear the smaller evil. Sir, the consumer is never consulted when it suits the interests of the Government, but he is always the hobby-horse trotted out whenever it suits the Government and whenever any other argument of theirs fails.

With these observations, let me turn to the text of the Agreement itself, and in this, departing from the practice which many more experienced men than myself have followed of asking questions for a solution by the Honourable the Mover, I propose, so far as in me lies, to read in the language of the instrument to find just what it means: for, this House, I am sure, has a very painful recollection, of relying upon statements made as to the meaning of general words used either in motions, Resolutions, or in Acts of this House. I know that very often in order to assuage the House or in order to catch a doubting vote here and there, the generality of language used is sought to be mitigated by very soft expressions, but when they come to be construed, whenever they come to be applied either in business or in a Court of law, we are told that those are irrelevant matters. What we are told is to look at the terms of the instrument and to see what it means and not anything else. I, therefore, do not propose to ask any questions or to ask for any explanation. What I propose to do is to put to the House the reasonable meaning, as we apprehend the Agreement bears, and, it is on that meaning alone, that I ask the House to pronounce an opinion, for who daresay that so long as it is possible to put the construction that I put before you can be put upon that instrument that any expressions of opinion by those who now represent the other side of the House can be of any value when the question of its application or full significance arises? It is for that reason that I wish to take the text of the Agreement as briefly as I can. In describing the Agreement, I am reminded of a well-known passage from the Bible:

"He who hath shall be given, but from him who hath not the little that he hath shall be taken away."

"Discriminating Protection"

That is the best description that I can give of this wonderful document before you, for the gist of the document is this. The first two clauses, in so far as they are

not obnoxious, merely reiterate what does not require an admission from anybody. Who has ever disputed that every country is entitled to protect her industries: call it discriminating purpose of ascertaining that you have what you have and that is all that is said in the first clause of the Document. And here I must advert to the word of which a great deal is made during the course of this debate, namely discriminating protection. I take it that, apart from any technical definitions, the word "discriminating" can only mean prudent. The word "discriminating" has not within it that peculiar sense which is sought to be read into it, discriminating between A and B, or C and D. Discriminating protection merely means reconciling the interests of the industry and the growth of the industry in the larger interests of the country with those of the consumers. The word "discriminating" involves a judgment which the country in her own interests has to bring to bear upon any measure of protection that is brought before her. She has and should have no relation whatever to any outsider, whether British or non-British. Discriminating protection is a matter that has no logical or economical relation with any preference of any outsider so far as the trade in this country is concerned. The two things are entirely apart and yet the greatest vice of the instrument before you is that the two are sought to be allied with each other in such a way that you cannot have one without submitting to the other. With this introduction, I ask you to consider Article 1. It runs thus :

"It is recognised by His Majesty's Government in the United Kingdom and the Government of India that while protection to an Indian industry against imports of whatever origin may be necessary in the interests of the economic well-being of India, the conditions within industries in India, in the United Kingdom and in foreign countries may be such that an Indian industry requires a higher level of protection against foreign goods than against imports of United Kingdom origin."

I pause here first to point out that, in so far as it recognises our right to have a protection for the growth of our industries, it requires no agreement, it requires no concession. And in so far as it states that the industry may require a higher level of protection against foreign goods than against imports of the United Kingdom, it leaves a most important hiatus in the converse which is not to be found any where, for it may easily be that a higher level of protection may be required against British goods than against non-British goods. It is implicit in the very first clause of the Agreement itself, cleverly worded though it is, that you may have a higher level of protection so far as non-British goods are concerned, but you may not have that in the converse. This interpretation is reasonable, and I do not want any assurance or any statement to misguide us whenever we judge this issue. Taking Article 2, it is recognition of a right of a politically subordinate country to levy import duties for her revenue purposes. This cannot be denied and requires no admission. This clause is a mere padding. So you repeat many admitted things and while repeating these things add to it a few things which may easily escape attention if it is not carefully scrutinised. The first clause, therefore, gives us nothing and, in its latter part, enunciates or involves a vicious principle, as the converse of the proposition there stated is not to be found in any other part of the document. The second Article merely gives us what we are entitled to possess. This requires, therefore, no agreement. The language of the first two Articles shows no consideration, and taking even the speech of the Honourable the Mover, it is only clauses 5 and 6 in which are to be found some reciprocal term of value to India proceeding from the United Kingdom Government. In the third Article I wish to emphasise sub-clauses 2 and 3 touching only one or two matters of construction in those sub-clauses. Clause 2 reads:

"The Government of India further undertake that the measure

of protection to be afforded shall be only so much as, and no more than will equate prices of imported goods to fair selling prices for similar goods produced in India, and that, wherever possible having regard to the provisions of this Article, lower rates of duty will be imposed on goods of United Kingdom origin."

No Advantage to us

I am indebted to my Honourable friend who leads me at the Bar for emphasising the purport of sub-clause 2 of Article 3. The first most important part of it is that we are not merely told what the practice is or the general practice may be, but we are to be bound down by an agreement as to the manner in which we shall carry out in our own interests the policy of protection. There is a limit placed on the considerations which may be imported into it with a further condition tacked on to it at the end "and, having regard, wherever possible, to the provisions in this Article, lower rates of duty will be imposed on goods of United Kingdom origin". And yet we are told that there is nothing in this Agreement which can be the origin or an almost direct provision for British Preference. I wish to point out that no agreement should be allowed to be entered into which will fetter the judgment and the discretion either of the Tariff Board or of the Government as to the grounds or the principles on which we wish to carry on the tariff policy for protection purposes. But the object here is obvious, namely, no consideration shall enter into it except the equation of the selling prices. Therefore there is something substantial that is granted to the United Kingdom on the part of the Indian Government. Now, I come to sub-clause 3 which runs thus:

"The differential margins of duty established in accordance with the principles laid down in the preceding clauses of this Article as between United Kingdom goods on the one hand and foreign goods on the other, shall not be altered to the detriment of United Kingdom goods."

the authors of civil resistance in this country, who after a hundred years of a weak and paralysed mind which had been imposed upon them both by a double process of armaments and by disarmaments, a double process indeed, by which they suppressed the mind of the Indian people—and thank God, and thanks to your callous attitude, the time arrived when all sense of justice, all appeals to a sense of right, all appeals to ideas of freedom, all disappeared into thin air. It is unfortunate for us that many of those who could or might have easily rendered service to this land, are at present loyally serving a single cause, namely, the suppression of the Indian people. That is what they have achieved. I am not sorry for that achievement. I will congratulate them upon it. But I may tell them this, that freedom's battle once begun, as their poet has said, is handed down from sire to son. And you may take it from us, you may present these budgets year after year, sheltered by the Constitution which you possess, by the authority of might that you have, but we shall be here, we shall still fight the same moral fight in order only, not so much that we want anybody else's, but we want to be masters in our own home.

The other day, when His Excellency the Viceroy addressed from this place, he invited, he extended a very cordial invitation to all of us to come and see the manoeuvres, and, in doing so, he used a language which I shall never forget! "We want you to come and see how your money is being spent." Indeed he told the truth, and I am not misquoting. Indeed he said it in another sense, but I understood it in a different sense. I am here to point out in broad outline how my money is being spent, and to what extent not a single pie of it fructifies in a substantial way in order that the national development may go on. If, at the end of a hundred years, there is no response to a sense of justice, there is no response to an appeal for equity except the lip-worship of partnership—I know many

partnerships, I know of a partnership in which the man, though called a partner, has no voice in the management but only handles the goods and earns profit for his masters—that is the kind of partnership that we are asked to be offered, and we are content with it. That is the position in which we stand.

Double Policy

As regards the double policy that was envisaged, a policy in the name of law and order and a policy of enlarging the freedom of this country—as to what the latter was, we have already discussed while discussing the report of the Joint Parliamentary Committee. As regards the restoration of law and order, I am one of those who fully understand and appreciate what it means and what it involves. I am not here to go into details of the manner, the method and the measures that were adopted, all in the name of law and order, in order only that the spirit of India, which for the first time in its history, by means of a sheer non-retaliatory moral force, attempted at all events to express its earnestness and a desire for genuine freedom to manage its own affairs. Undoubtedly many a sacred word can be abused, when you have arrived at the stage of an Empire, when the despotic power grows so much, when it becomes entirely impervious to public opinion—it is then that public opinion is required to be suppressed. Public opinion in any other country is the greatest safeguard of its liberties, public opinion in this country was regarded as a crime, and I know very well the number of Ordinances and other laws which passed by a similar name. Undoubtedly it was a very great achievement from the point of view of those who govern. But I will leave it at that. That was the policy in so far as the spending of the money of the people was concerned. So far as our spirit went, so far as it gained momentum, that was the way in which they dealt in the name of law and order with the only genuine movement which for the first time in the history of the world attempted

to raise its head in order that you may not lull yourself into a sense of security that the Indian people have the same acquiescing submissive attitude towards *Pax Britannica.* That was last year's history.

Impotent Opposition

I come next to what happened in this House, when the Congress, some three years ago, said there was not much purpose to be found by remaining in the Legislatures. Our friends opposite and the Anglo-Indian Press said "What is this non-co-operating futility". I came here with the suffrage of the very people whom you have considered fit, however small they may be. Having come here, what is the meaning and the sense of co-operation that we have received? What is the sense of co-operation that we are going or likely to receive? Are we then here as mere witnesses to assertions on the other side—an impotent Opposition? Why give us the name of an Opposition? In a subject race, what other thing can an Opposition do? An Opposition can only put forward its views. It is not like the Opposition in any other country. If we were a genuine Opposition and if we were not dealing merely in forms and mockeries, these gentlemen ought to have walked out of their office, and even if they had the power to remain, if they had any sense of self-respect, they ought to have resigned. But, undoubtedly, they will remain. If we were a genuine Opposition, when we rejected a large number of their proposals from time to time, what would be the effect in any other country? Therefore, let us not make any mistake about the futility of the Opposition as shown by the manner in which they deal with you. They deal with you in the only manner in which it is possible for any subject race to be dealt with. They will not recognise that they are in the wrong and they will not give a second thought to what is presented from the other side of the House. What is the meaning of the co-operation that you want? Is the

meaning of co-operation this—that we shall assent to all you say? Then, we need not be here, but if the meaning is that there is a constructive alternative, then, I can assure my friends on the other side that there are sufficient number of us here who are prepared to present a constructive alternative. I appeal to my friends on the other side either to accept it or let us try it. Let us not be told: "Oh, you are futile men unless you come and sing in our tune". That cannot very well be the position for which we stand. The country is merely held in bondage and you cannot possibly deny that its money is being spent for the purpose of that subjection and all that is left to the people of this country is to come here and enter their protest, and even that protest is not regarded very pleasantly by Members on the other side of the House. We passed a Resolution about the privileges of the House with reference to an esteemed friend of ours, Mr. Sarat Chandra Bose. How was it treated? It was turned down. We passed a Resolution with reference to the Indo-British Trade Agreement. They could have certainly said: "We were under a misapprehension. Undoubtedly we have the power, but we must only exercise the power at all events with the assent, the consent and goodwill of the people", but what was the result? The result was that no consideration was given to it. We next passed a Resolution asking for a very small thing in itself. I know how it is exaggerated. I know how it can be exaggerated. We passed a Resolution that the ban should be removed on the Khudai Khidmatgar institutions in the North-West Frontier. What was the answer? Nothing. We passed such opinion as we in our wisdom or prudence thought fit to pass, so far as the Joint Parliamentary Committee Report was concerned. The debate was undoubtedly sent to England, but I should like to know whether we have moved a single individual or by a single inch the heart of the Government subordinate though it be, would they not have moved, if they had regarded

their functions in a little more honest spirit—of regarding no other interest in the world as their own except the interest of the Indian people? Have we moved them to action, in response to all we have done? We have had the difficulties of our countrymen in other lands. What has happened? An officer was sent out with a view to investigating the conditions of the Ordinance passed in Zanzibar. The result, I dare say, is that a considerable amount of money and time have been spent in correspondence. Have the Government of India, as they might easily have done, stood out and actually threatened a retaliatory measure? We are told there is no question of retaliation, and all we can do is to request the Colonial Office, and, at the end of that request, you will say: "We regret very much. We did our best in your cause, but we are very sorry to say that the law of that particular colony must prevail". In other words, our fortunes are entirely at the disposal of the Government in order that this may subserve their own plans. Let me, therefore, appeal to the Government of India, constituted even under this very Act itself, to concentrate themselves no longer in the futile task in which they have been engaged during the last 150 years, of raising money and spending it, all the time pretending that it is in the interest of the people. I dare say, the soldier can rattle his sword. He can wag his tongue, but that is not a matter of any consequence. For many years now, there has not been any serious danger on the frontier so far as one can appreciate and understand. Some of us have read history, though we do not know military strategy, and we are fully certain that the bulk of our money which might easily have been saved for nation-building purposes, for which it is time to begin, is still being spent under some cover or other in other ways and in particular in military training and equipment for Imperial purposes. It is a case in which you take all the money that you can and spend it for every purpose other than the one on which you ought to spend it, the

purpose for which you exist or ought to exist. It is for these reasons that I ask the House to accept the cut that I have moved.

GENERAL BUDGET

7th March 1935.

Mr. President, I have somehow or other the misfortune to be reminded that every matter has got to be judged by a standard of some other cold logic than the one which I have applied, I hope and trust with some effect and advantage during the long course of my career at the bar. I do not know whether it is a confession on the side of those who cannot argue and will not argue and have already intimated to us that it is useless for them to argue, or whether it is a case in which what we submitted to the House was unanswerable.

Coming to the actual reply, on which I shall be very very short indeed, I wish to analyse for my friends who suggested—and indeed there are several friends who made out suggestions self-contradictory—that they did not appreciate the issue which I raised by the cut motion I put before the House. My friend, Sir Cowasji Jehangir, said as a lawyer I knew what I was about, and yet he, a layman, knew better what I was about. That is a fair summary of the very great rhetoric with which he regaled the other side of the House. But my friend, Mr. James, undoubtedly deserves much more than a passing notice. I am almost sorry to see that he has missed his vocation. I wish he belonged to my profession: I think he would probably have been infinitely better off than arguing a case for Government for which there are many and better advocates, with due deference to him. I ask this question now, is it within this constitution or without it that we are called upon to vote on votable items of the budget? I

hope and trust that if it is within this Constitution there must be some occasion to exercise it. If we are to be told here that though these items are votable, because in their sounder judgment they may and probably will disregard the votes of this House and that, therefore, we are not to exercise even such limited privilege as there is, in refusing to grant the supply which we have a right to refuse, I do not know what other issue there is before this House. It is easy indeed to make a summary of phrases of some twenty or thirty speeches and satisfy oneself at the end of it all "Oh, I have made out a case, gentlemen; I am not appealing to those who have made up their minds: I am appealing to some who have not yet made up their minds". I would like to see—I am afraid there was not sufficient clairvoyance to see which were those minds which had not already been affected: but I am here to point out, at least in justice to myself, that if this House has the right to refuse supplies, if it means what my friend means that because what they do is irresponsible in that they are responsible to somebody else, in that they have to carry out somebody else's orders, why have it within that Constitution that you may, notwithstanding the fact that they are carrying out somebody's orders, if they and those who give them the orders have done a wrong, that this House can express its sense of wrong by refusing supplies. That is the genuine issue. The issue is not as they would burke it. I know they wish to burke the issue and say "I am very sorry: I am a very good boy: I wanted to do all that you said: but what am I to do with my grandfather?" If that is not a true and genuine summary of the speech of the Honourable the Leader of the House, I ask this House whether any better summary could be presented. In fact, I have never seen an appeal more *admisere cordiam* by people with all the power and yet with a mock humility which I have heard this afternoon. The Secretary of State did not come in when my friend at the end of

his peroration said "You wanted ABC, to be released: but we in our sounder judgment did not do so". Where was the grandfather's behest for the purpose of not carrying it out?

The Honourable Sir Nripendra Nath Sircar: The grandfather was asleep.

Not in the interests of India

Yes: I hope indeed that that grandfather will sleep for ever. Sir, the way in which issues are argued in this House really surprises one. I quite agree it is a matter of catching a vote, and, of course, you are justified in doing what you like, at least that is the policy that I see on the other side: they do not squarely face an issue when it is presented to them. If they admitted before this House "in every single matter we differed from the Secretary of State: here are the orders which we have received: we are helpless," I could understand the plea. Even then, we should have been justified in asking this House to say that through you we are entitled to express our opinion, not merely of your conduct, but of those under whom you serve. As my honourable friend knows, he is perfectly comfortable: the whole of the Executive Council knows they are perfectly comfortable: their salaries are not votable. How, then, does it happen—this convention that there is this Rs. 70,000 odd, salaries of individuals who assist them in their task, which is the subject of this motion? For they know very well, as they ought to know that it is the token that matters and not the thing. They fully appreciate, but they will not understand: it is not their purpose to understand the true issue and the manner in which it is raised. When we say that Rs. 70,000 shall not be voted, does it mean that the Executive Councillors will starve? Nothing of the kind: they know they will not. But the fact is, and they have, by their own conduct and by the rules of the House, admitted that if, through those men to whom the Rs. 70,000 are to be disbursed, we can express our

which also says that the military and the civil Government of this country is in the hands of the Governor General in Council, subject, of course, to the orders of the Secretary of State. I have read those sections, but those sections do not at all shift the true nature of the issue that we demand. Whether it is the Secretary of State who is responsible or whether it is his agents who are responsible, if within the Constitution there is a votable item by inviting a vote on which I can ask the House to say that the administration has not been exclusively and truly in the interests of India, your vote should be for me. That is all I have got to say.

GENERAL BUDGET

8th March 1935.

Mr. President, I regret very much that my Honourable friend, Mr. James, yesterday thought that I could ever be guilty of expressing either venomous sentiment or using a venomous language, and I want him to be reassured, if ever assurance is needed, that in any observation that I make before this House, I will always venture to firmly express my opinion, but it is not intended to convey and there is not behind it any tinge of bitterness of any kind, an assurance which I am obliged to give by reason of the way in which he appeared to have been moved yesterday and it becomes appropriate because of the nature of the motion before the House today so that in anything that I say, I will attempt to weigh every word that I speak to the best of my ability, but I want to be weighed in a balance a little less difficult than the one by which I was weighed yesterday.

Not getting a fair deal

Sir, in supporting the motion of my Honourable friend, Mr. Aney, there are two things which I wish to make clear inasmuch as constant reference necessarily had to be

made to the Congress, its attitude and its policy. It is not my desire to take a historical review beginning with the *Ramraj* as some of the more ambitious Honourable Members on the other side attempted to do. I am one of those who believe that after all is said and done, there is such a thing as considering a living question and it is to that that I address myself in the few minutes that I want to occupy. The first point on which there should be no disagreement between me and any Member on the Treasury Benches at all is that every State must draw a line both in the matter of any law making or their enforcement between men's opinions and their expression in words or translation in conduct of the assertion of those opinions by either of these methods. For indeed, I think that even the boldest of Kings, however autocratic he may be, would not attempt to eradicate from human mind principles which that mind believes in as being right. For one thing we shall never accept as a condition of any agreement or imposition that we should forswear our belief in "Satyagraha" as a true instrument of our deliverance and this no more and no less than the Germans, when they were defeated, forswore in the Treaty which they had to enter into that war and a war of force as an instrument they would not resort to in the future for the purpose of their deliverance. The real issue between the State and its citizens is always on what occasions and under what circumstances the principles in which you believe are actually to be put into operation in our words or by our conduct. I have never yet heard that principles by which you live have got to be forsworn as a condition of your being readmitted to the confidence of those with whom you have every right to deal and be dealt with justly, equally and fairly. That clears, I hope, the ground between us, and whatever language may have been used, notwithstanding the passages which have been read by the Honourable Sir Henry Craik, the passages only indicate what might have occurred in any other document whether expressed or unexpressed,

if ever circumstances are such that this country, according to the conception of those who believe in it, is not getting a fair deal by and after an appeal to every sense of reason, every sense of justice, to every sense of what are called inherent ideas of freedom, I dare say there may arrive a time, sooner or later, when my countrymen and countrywomen may feel it their duty to carry on a movement of direct action in order to attain their deliverance. I do not think that passages written in that historical sense can ever be called up by a Government, even a too cautious Government for the purpose of continuing a policy which was embarked upon for the purpose of meeting a movement while it was going on. I am here to tell them that passages of this kind ought not to be stressed in the manner in which they are stressed and I wish them to understand that they express a historical truth to which they could not take any objection and that they should not be perverted. I know that they are not perverted in any insincere sense, and should not be construed so as to be a justification or an excuse for a continuation of the policy which may have been justified (whether I agree or disagree, this is not the occasion for the purpose of discussing that issue). Ever since last April, so far as the body of Congress opinion is concerned, it has made it plain that the Satyagraha struggle has been suspended for more reasons than one. I hope and trust that this termination may become final if circumstances alter, of which alteration there are few signs at present.

Direct Action

The other day, I heard the Archbishop of Canterbury ordering a prayer throughout England and the English Churches in order that England and India may understand each other better. I am quite certain, His Grace was quite sincere in the appeal that he made. So are we sincere in the manner in which we offer our hand

of friendship. But I am here to say that we believed and still believe that unless circumstances materially alter undoubtedly without direct action there seems to be no deliverance for India. But we shall avert it, and when we say that, we mean every syllable and every letter of that syllable. Every strength that I can put into it, every earnestness, every sincerity that I can put into it, is at your disposal, but beyond that nobody can say more.

My Honourable friend, Mr. Monteath,—I had not the pleasure of personally knowing him except here,—referred to the Bombay Presidency. And it is with reference to that Presidency of which I can speak with personal knowledge and with confidence as to the aftermath, if I may say so, of what is left at the end of the Civil Disobedience Movement, that I make also a further appeal. I am aware myself of at all events a long list with which I will not trouble you, but the typical lists I will present to this House through you, so that my Honourable friends on the other side may consider it not merely in terms of a general progressive policy of revision, but in terms of the attention which they deserve. I happen to be myself a trustee of an educational institution over which we spent some lakhs of rupees, and in which 150 boys and some girls were being housed and educated. This Anavil Ashrama in Surat is a most enviable institution in every sense. Its education was of the best, its discipline was perhaps even better. That institution was declared an illegal Association under the Criminal Law Amendment Act which came in very handy. And I am not here to go into the past history of how these Acts were used, whether they were intended for the purposes for which they were used. This law was professedly and admittedly made with a view to meeting every form of violence, murder and dacoity. The words used were that the Government might in its discretion, in the event of a breach of the peace, declare any Association illegal. It

was not even dreamt by the framers of these laws how these words would be used after a period of 23 years from the time they were actually used. And every single institution came in handy during the course of the Civil Disobedience Movement. All that the Government had to do was that the formula having been used before, only the name had to be inserted. And one of the institutions whose name was inserted was this Anavil Boarding School and for no other offence than the fact that the Warden of that institution was one of the persons who was sentenced during the course of this Civil Disobedience Movement. Even today, I happened to visit Surat only less than about 10 weeks ago, that house there lies unoccupied, unused to any useful purpose, and for all that I can see, for no visible offence. I can give also further instances to Mr. Monteath, because it is not the number that they have discharged or disbanned which matters; what matters is what is left and why it is left. It is not a matter of proportion. There is another boarding school next-door equally belonging to a similar institution of which any country might have been proud. Indeed I must speak a little more modestly for the simple reason that these two institutions in Gujerat have served as a great model for boys and girls to be trained up in every form of education including, of course, preserving, maintain ng, a d, if possible, strengthening the national spirit and nationalist point of view. But that is all their offence. Then I pass a little further on in the same territory. I will remind my friend that he will also see in Bardoli, there is no question of revolution, unless the word "revolution" means a desire, which I have already expressed as a matter of belief, that we deserve to be a self-governing people. If that is revolutionary, everything is revolutionary; and in that case it is not possible to draw a line between civil resistance and revolution. But if by revolution is meant a change of government by sheer physical force then, of course, I can understand the

word "revolution". For, in India, these phrases are easily used and very easily abused also. It is not that my friends here individually are aware of these things, but the fact remains that when formulas are provided, by many a formula many a sin can be easily covered. And I will, therefore, remind my friends that throughout the Bardoli taluka in which there is Satyagraha in its best form of non-violence in thought, word and deed, and its best form of truth, every single institution in that taluka is still in the possession of Government, entirely unused, entirely uncared for and the buildings in some places are almost on the point of falling down. All that you find in that place is a few policemen squatting just for no other purpose than for the pleasure of seeing that these institutions are still under a ban. That has been the response from April 7th last to April 7th which we shall presently reach. All that I can say is that either those who are here are not well informed, or, if they have their sympathy with this kind of thing, they cannot very well ask themselves to be acquitted. There are many other institutions in Gujerat a little further north of which Mr. Monteath might well have been informed. There are some schools, and in as-much as they bear the name of Mahatma Gandhi or Vallabhai Patel, for that offence only these institutions are still under a ban. Of the 69 prisoners that the Leader of the House spoke about, I can at all events personally testify to several of them name by name if we had that list here, and I should be able to show that there is not a single one of those who has been guilty of any violence; they were guilty of no violence of any kind during the course of the Civil Disobedience movement. Those remain still in gaol for no other purpose than that probably they have specially incurred the wrath of the particular officers who are in charge of reporting upon them. I was one of them who personally attempted to get in touch with the District Officers of all the Districts in the constituency, which I represent. I went not in a spirit of wrangling, not in

a spirit of recrimination, I went in no spirit of arguing the past; I went only to inquire as to what could be done as to the future. And the only reply I got from the District Officers was "We do not know, it is a matter of the policy of Government". That, Sir, is the position in so far as the response in my part of the country is concerned.

As regards the last moving appeal that my Honourable friend, the Home Member made, I am sure, I can only endorse what Mahatma Gandhi has always said that it is not with us a matter of policy.

The Honourable Sir Henry Craik: Sir, I am sorry to interrupt my Honourable friend, but I have a letter from a very high authority in Bombay dated only the other day which says that there are not more than 30 prisoners left in Bombay.

Mr. Bhulabhai J. Desai: I will accept that correction. It may easily be that 10 or 11 have been released in the interval of my information.

Sir Cowasji Jehangir: Supposing there are 30 left, can the Honourable Member satisfy us that they were non-violent?

I can certainly testify to it. I was one of those who have been in the midst of at least 800 prisoners in the Nasik Jail, and it became our business seeing that we had plenty of time, seeing that we had established a real genuine democracy and equality between ourselves, to know every single one of them as the meanest was as good as the best of us. I also know many of some sixteen hundred odd persons who were in jail in Visapur near Ahmednagar, and I can testify to every single one of them that he was not guilty of any violence during the course of Satyagraha movement.

I do not wish to keep the House very much longer. Coming to the last moving appeal that the Honourable Sir Henry Craik made, I am not, as I said, perhaps as fit as Mahatma Gandhi to join with him in the appeal that he made: in fact, I happened to be in England at the time when one of the officers—I believe it was Mr. Burge—happened to have been shot in Bengal: and I remember the appeal made by Mahatma Gandhi at the time, not merely personally to his own countrymen, but all over the world, because, as I said, with us it is not a matter of mere expediency: I know we can easily be judged by a lower standard: I know we can easily be told "Oh, you have not the strength, and, therefore, non-violence suits and befits you." But we are of those who believe—whether we are right or wrong in our belief will be tested by the future. Most civilized minds believe that evolution must be on the lines on which we believe, whether the evolution would be near enough in practical politics is another matter—I ask them to believe in the sincerity of the belief that we profess that it is not a mere question of expediency or a case of having nothing else to do, of merely trying the method of non-retaliatory measure so that even those who are armed may be disarmed: but we sincerely and genuinely believe that all arms are disarmed when a person refusing to retaliate bares his breast against attack, in order only to assert what he believes to be right. That is what we believe, and, therefore, every form of violence we shall agree with him in condemning, not merely as I said as a matter of expediency, but as a matter of genuine and sincere belief and although he will always have ample co-operation, I cannot very well agree with another friend—I must guard against him—to be a police informer or to take up violence for the sake of fighting violence along with the Government, because that was the kind of appeal which one of my friends made on my side of the House.

What I was saying was this: with us it being a matter of principle, our sympathy is not merely verbal, but is real and genuine. In what form and to what extent it could be expressed in our conduct is a matter on which we may easily differ. But you may be certain that in so far as it is otherwise consistent with our beliefs, it is not merely lip-sympathy, it can be easily expressed at least up to a point.

Appeal to avoid direct action

Before I sit down, there is one more word I have to say: I recognise that in this particular matter I cannot separate myself from you: we are only separated by a form of Constitution: we cannot separate members of a State much too long: and if we continue to be separated as members of a State much too long, it would be deplorable and it is, therefore, our duty to come together in condemning all forms of violence. While undoubtedly putting down every form of violence, we should be careful not to exceed such limits in the process of extirpation as would probably aggravate and propagate the disease itself. It is a warning which has a meaning and which has a sense; and I have not the smallest doubt that my friends, who are immediately in charge of these matters, will see to it that the measures which they take to fight violence are adequate, and just adequate, that the men and areas they strike are adequate and just adequate, so that there may be no occasion for any complaint in this House that liberties of the innocent persons have been restricted in the prosecution of even of a campaign against violence. I do, however, say that the response, which we have got, after a period nearly of a year now is in halting and poor measure; and all I can say is that I hope and still hope that revival of direct action to which reference has been made may never be necessary. The other day, I read in a book by Mr. Keynes in which he said that the British Empire was

disintegrating almost by mutual consent as the result of the Statute of Westminster, and that the British Empire is now represented by India: and, therefore irrespective of abstract theories, if self-government is established in this country making consistent the interests of both India and England, I am quite certain a revival of direct action may be avoided and become a thing of the past. I have therefore, not the smallest doubt that, in a matter of this kind, it is wise to be generous, but it is dangerous to be ungenerous.

KARACHI FIRING

21st, March 1935.

Mr. President, following my friend, Mr. Jinnah, I wish to make it quite clear as to what the true issue before the House is. The true issue before the House has got nothing to do with the rights or wrongs of the criminal who was hanged. That is not the issue. I regret very much that any such issue should ever cloud the true issue which is before the House today. I also join with my friend, Mr. Jinnah, in the appeal that he has made and which he has pressed with all the earnestness at his command, that a matter of this kind, where lives have been lost, and children have died and men have been injured, is not one in which this House can merely accept the bare statement of an assurance that everything was done rightly and that nothing requires investigation. I am one of those who believe and believe very earnestly that a matter of this kind can never be decided and can never be asked to be decided on purely *priori* grounds and it is all the more surprising to me that on the telegrams and the other information which has been read out, a responsible Member of the Government should get up and should want to assure the House or think that he is justified, unless he is of the opinion that no wrong can ever be

done by any agent of this Government so long as he is in power: that is entirely an erroneous attitude and I have not the smallest doubt that when the Honourable the Home Member reflects he will certainly not adopt that attitude at the end of this discussion. My sympathy undoubtedly as the sympathy of every man here, goes out to those who have suffered for undoubtedly those who have suffered are innocent. The question undoubtedly is one of investigating how what occurred did occur, or perhaps to put the words of my friend a little more strongly, would not prevention have been better than shooting? Because those were the two alternatives—either prevention or shooting; and between the two, certainly this House, or anybody who represents the least idea of humanity or efficient administration, is entitled to have it investigated whether or not this was a preventable injury. The fact remains, in addition to the facts which my learned friend, Mr. Jinnah, has stated, that a motion was actually given for an adjournment of this House on the eve of the anticipated execution of this man: it was disallowed on public grounds. I have no quarrel with that decision; but the fact also remains that, therefore, it was not a matter entirely concerning the local magistracy or the local civil authorities. It is a matter which was well within the knowledge,—on which actually an opinion had been pronounced, having been so sought, I presume,—of His Excellency the Viceroy, in order that that matter may not be discussed. It was, therefore, fully well-known that events must take necessarily a wrong turn, perhaps a bad turn, perhaps a most undesirable turn, unless there was a certain amount of pre-vision and caution were taken in this matter. I have not heard a single word in the statement that has been read out here of any precaution of any kind. If precaution had been taken, the graveyard might have been properly guarded in order that the body might not have been exhumed: what did they do to have that graveyard guarded?

The Honourable Sir Henry Craik: The graveyard was guarded by the police.

Mr. Bhulabhai J. Desai: Yes, guarded in a manner which has resulted in what has resulted: they call that guarding. If it is guarding, I call it gross negligence.

Mr. M. A. Jinnah: Criminal negligence.

Mr. Bhulabhai J. Desai: They should have anticipated trouble. I am not here to judge. One might say that perhaps the wiser course might have been not to deliver the body at all. That perhaps would have been a wise course. Because, I know it is not in every jail,—I have been in one myself,—it is not in every case that a dead body is handed over to the relatives. There are instances in which the authorities have felt it their duty and their right in the cause of public peace to dispose of the body in the manner in which they thought best. It has been done in other instances and where disasters of this kind have been averted by caution. In this case the civil authorities had been warned long before, and they did nothing to prevent the disaster. Not a single word has been said as to what the District Magistrate or other civil authorities did, not a single word has been stated, from what I heard from the Honourable the Home Member, as to why the military authorities fired in self-defence, which almost give me an idea as if there was absolutely no warning of any kind. Evidently the facts are such that one would certainly expect them to state clearly and precisely as to what necessitated them to take the action they did, namely, self-defence by armed men with bullets and bayonets at their command. I would, therefore, appeal again, in order to end this discussion, the Honourable the Home Member is not infallible,—he is not personally responsible, but only those under him about whose acts or neglects he does not fully know,—there is no need to

defend things of this kind in the spirit that everything must be right and must have been right,—but I still appeal to him in the name at all events of all those who speak in terms of humanity, that where life and liberty are in danger, or, more so, when they are lost, that an impartial inquiry should be made, and, without that, no public will ever be satisfied

DEATH OF MR. T. A. K. SHERWANI

22nd March 1935.

Mr. President, it is indeed with a very heavy heart that I rise to-day to request the House to join with me in mourning the loss of one of our dearest colleagues. Mr. Sherwani was elected to this House and was really not able to give the best during the course of this Session. But, in earlier years, history has it that he has rendered great service to the cause of his country as he conceived it both in and out of this House. He was a graduate of the Aligarh University, distinguished both in sport and in knowledge. He was among the band of graduates, young men of the time, at the two great English Universities, from among whom the noblest of them all, Pandit Jawahar Lal Nehru, the noble son of almost a nobler father is still spared among us, and, after his graduation, Mr. Sherwani returned to this country and he was called to the Bar, and there he was distinguished by that stability of judgment, courageous but restrained as he always has been. Thereafter, he joined the movement—which has now been distinguished, and many of his fellow countrymen joined in the same—known as the Khilafat movement and the non-co-operation movement which followed. In 1923, he joined this Assembly under the distinguished leadership of Pandit Motilal Nehru whose traditions we are attempting to carry on in an humbler vein, but, to the best of our sincerity and ability, we are walking in his footsteps to carry forward the work as he conceived

his position to be in this House, and the great link that we had with him, at all events, one of them has been snapped by reason of the death of our friend, Sherwani. He was of the rare type of the evolved Indian of the free future India, for indeed in him there was no distinction in thought, word or deed, either of race, religion or even members of the communities of his own country. He lived and died in India and he gave all that he had to the cause which he loved most. He was a tower of strength to us, and from the height of his manhood he observed and countered to the best of his ability smaller differences of smaller men due to our frailties. He was a man big not merely physically as Providence endowed him, while he was big in mind, the biggest of all, he was big in heart, a gentleman fashioned by nature for the example of his fellowmen. I ask you, Sir, to convey the profound regret, at his untimely death, of this House to the bereaved members of his family, his widow, his father and mother, his brothers and the rest, and I also move, should you so wish it and allow it that the House do adjourn out of respect for his great memory.

INDIAN FINANCE BILL

25th March 1935.

Mr. President, I confess that having regard to the long drawn out debate on the Finance Bill, I am afraid I am addressing a somewhat stale and tired House and I will confess even to a feeling of a staleness in myself. At the same time I think I owe it to myself and to the Party I represent and if I am not attracting too much credit to myself, I owe it even to the Honourable the Finance Member to state some broad principles of national financial policy by which and for which we stand in order that the observations may not be drawn from stray speakers on stray issues in order to represent these disjoined passages to be the lines

of national policy as represented by us. For it is not unlikely, that, during the course of a debate of this kind, from a division of offices from the smallest to the highest, between communities, provinces and every other kind of division which can be imagined, claims have been and will be pressed, observations have been and will be made from which it would be entirely wrong on the part of the Treasury Benches to draw any generalisation for the purpose of representing a policy. So long as the position of India remains what it is, this kind of remarks and claims are inevitable, and in what proportion and how they can be met with justice to all is another proposition. Sir, in making remarks on the Finance Bill, though I may be fully at large according to Convention, it is not my desire to be more at large than I can help, in order only that our points of view may be clearly understood and met. I will claim for myself the same liberty from certain amount of doctrinaire economics which my Honourable friend, if he will allow me to call him so, the Honourable the Finance Member claimed for himself. I will also remember, during the course of the observation, the limitations imposed upon us and on other Members of this House that we are within the limits of the Government of India Act, a reminder indeed which is too frequently emphasised. But I will give that reminder according to my estimate, for a better reason than the one for which it was used. The occasion on which I was reminded of the limitations of the Government of India Act was when we were talking of the futility of the majority votes of the House being still disregarded if the Government and their representatives so thought. I am now referring to that in an entirely different context, and I hope for a better purpose. I have read and re-read the Government of India Act, professionally and otherwise, but I do not find anything in it which imposes an obligation upon the Government of India to do what they do, i.e., to invariably and constantly and for all time disregard all that we say and all that we vote for. That certainly is not to be found in the

Government of India Act. It would be an abuse of the Act, it would be a perversion of the Act. In fact, all that the Act says is, should they differ from us, they have the power, but the Act does not say and I hope the Act will not be used for the purpose of saying that because they have the power, they will use it and abuse it. I shall, therefore, remind both those on this side of the House as well as those who remind me now and who reminded me before of the limitations of the Government of India Act that those limitations do not include the power which is said to be exercised and which is not by any implication to be found in the Act at all. If the Act is designed to any purpose (apart from other purposes which are alien for the purpose of the present discussion), it certainly enables a wise, and a prudent Government who have still some respect left for their own opponents who claim to represent the people that their vote shall not be disregarded, because, it has not been made obligatory so to do. But if they maintain the attitude which they do and if the Government say, because we have the power, we shall use it, then they cannot blame those of us who sit on this side of the House to continue our efforts, not for the purpose of obtaining justice of which we shall then despair, if that view of the Government of India Act is to prevail, but to prevent such injustice as it is possible by a vote of this House. At least those are the limitations which I shall bear in mind during the course of the discussion and during the course of the few observations that I propose to make.

That brings me to the description that the Honourable the Finance Member gave as to how I described his Budget. There are two parts of it which certainly call for a somewhat detailed reply. I did not take part in the budget debate at all, but it was only as introductory to one of the cuts on the Demands for Grants that I gave a short resume of what I conceived to be the true aspect

of the budget. But I think the prophet of Christianity has said, truth very often comes out from the mouths of babes and such more so from the mouth of one of the responsible advisers of the Government of India. I have read his speech over and over again, he does not deny the correctness of the description, but all that he says is that the description is only half correct, because I have not looked elsewhere than his own budget. But to the extent to which he admits the correctness, he must also admit the condemnation, and I will read out to the House in no better language than he himself used for the purpose of the budget. This is how it is described.

Omitting the reference to myself, he says, there is a somewhat malicious analysis of the Central budget in terms which may be freely paraphrased as follows: 45 crores of rupees for an alien army of occupation. Here I must say, I think, that I am spared any further description of that subject, because it is not denied, it is not merely that it is attributed to me as a description, because, at the end of it all, when I read it, there is neither a repudiation nor even an attempt at correction. The next description he gives is "X" crores for police and watch and ward and other agents of repression. That, I take it, is his description, and I have no quarrel with that either. Next he says, we had so many crores for the bloated agents salaries, of parasites and civil servants. "Z" crores for pensions of retired parasites of the above class and one crore for the welfare of the country. I do not think I could have found a better master for the purpose of giving a more apt description of the budget as it was presented to this House, and I am indeed indebted to the Honourable the Finance Member for the description that he has provided without the correction which he did not dare give us. What he did say was this: that it is a malicious analysis. I have asked myself often the question, as a lawyer, I have been called upon to define what

"malice" means. If malice means illwill for a designed evil purpose, then I am quite certain that I should ask to be acquitted of it, but if malice merely represents a reaction on his mind of the bitter truth that his description represents, then I wish to plead guilty to the charge. It is undoubtedly a malicious description in the eyes of those who use the revenues of this country for the purpose for which they are described to have been used. He says that I have done him an injustice in not looking at the budgets of the Provincial Governments in order to see if there was any money found for the purpose of the very large poor man who represents for all practical purposes the great Indian people.

Government stand self-condemned

I am happy to have noticed in the newspapers and also overheard a conversation that when Sir James Grigg paid a visit to two villages, it was rather a pity, if my report is correct, that during the course of that visit he also visited a monastery which is somewhat largely, endowed and which might, therefore, give him a false picture of how sometimes the highest class of priesthood manage to live also as parasites upon the poor men whose souls they offer to save no less and no more than those other parasites who are trustees of ours. But when he did visit those two villages, I am quite certain that he saw what a village truly represents and what India, therefore, represents in its seven lakhs of villages. He saw indeed in the felicitous language of my Honourable friend, Mr. Fuzlul Huq, he saw indeed I hope huts with mud walls, just able to stand with either perhaps a thatched roof or perhaps a few straggling tiles if at all—may be neat by reason of their industry and by their habits, but beyond that nothing more. It is quite necessary now to remind him of that, in order only that he might understand that the crore of rupees that he says with which he

wishes to begin the reconstruction of India from below instead of the super-construction of India from above which has been the policy of the Government for the past 150 years, he has not only all my sympathy, but all my support. Only if he will apply himself to that task not in the half-hearted manner the word "half" is not appropriate, probably in a millionth-hearted manner in which he has begun during the course of the budget, he will have my full support. He then says: "Oh! there is division in the taxation policy and the expenditure policy of the Government of India". He says if you want to look for self-preservation, look to us, we, who sit here, the Government of India. And if you wish to look at self-development, please go down to the provinces and their provincial budgets. I again ask him and the House a question, what does he mean by self-preservation? If he means self-preservation referring to himself, I think he is again correct, and I offer him my congratulations upon it. Indeed the best part, if not the whole of the income of the Central Government, is spent for the purpose of the preservation of self that sits on the other side of the House, and it is certainly uudoubtediy self-preservation and nothing else, not in order that we only are to be preserved, but in order that they may be preserved, in order that we might just enough be working skeleton and that we may have at least one meal a day in order to be able to pay the taxes. That is the division that he has offered us, and I am glad that he is right in his description. He says indeed rightly that the Government of India's revenues are only intended for self-preservation, whereas they look to the Provincial Governments for self-development. Going to the Provincial Governments for what? In order only to understand whether there was anything, any value in the statements that are usually made in the solacing comforting written statements that are made, in order to see whether there was anything, any reasonable proportion, in fact, any mentionable proportion at all of what are to

towards what are normally described in every civilised country as nation-building purposes. In fact, in every country, they do those things for the purpose of preserving the people and for the purpose of giving them at all events sufficient food, sufficient shelter, sufficient clothing, perhaps just a little education, perhaps just a little leisure in order to make their life worth living. That is the minimum for which my friend would have stood in England. He must have his bread and his butter, his beer and his tobacco and nothing less than that the poorest man's minimum living can ever admit of. Whereas, here, in a country where the poorest man's minimum living does fall short by 50 times of what would be the actual minimum standard of living in his own land, undoubtedly it is comfortable sitting in this House to say that the Central Government preserves itself, the Local Governments give some assistance to the people to crawl on their feet. And, looking to the budget of the Bombay Presidency for the year 1933-34, these are the figures which I found out of a budget of 18 crores and 73 lakhs. The only items that I can find were: Education,—1 crore and 80 lakhs; Medical—48 lakhs; Public Health,—25 lakhs; Agriculture,—25 lakhs. That is the grand total of what the Provincial Governments give and devote for the purpose of the development of the people; in other words, out of the moneys that were raised all that the Government of India have done hitherto is, preserved itself, preserved the country for themselves, and, in so far as the people are concerned, at the end of 150 years of rule, there is eight per cent. barely literate populace in this country. If this is all that they can claim as having devoted their great arts of government for the purpose of the government of this country indeed not even he can congratulate himself that they have done a modicum of the duty by way of the professed trusteeship that they claim for the purpose of the masses of the people of this country. That, Sir, is the first part of his speech in so far as his criticism of

my criticism of the budget was concerned, On the first, I submit with respect that he stands self-condemned. On the second, there is little that he has offered. Only he has asked me to look where I did look; and the only result of looking at it was that there is little or nothing in the matter of the advancement of education. And, in so far as actual village life is concerned, I hope the Honourable Member was able to see with his eyes that once you get within the precincts, within the limits of the village itself, there is neither a road nor a street, nor any means of public health nor drinkable water on which money is spent by Government. And if that is what they have been doing for the villages, the seven lakhs of villages of which India consists, all I can say is that the description is not inapt that we live for them, and probably during the course of that process of living for them their parasitical instinct will some day kill this country. And perhaps, if it is to survive this dragging, unendurable existence, I am one of those who are prepared to face a quicker death than the slow bleeding process that is going on. That is the account which they present, sitting here in their offices, of the money which they raise and the expenditure to which they apply it.

"Indianisation" of the Army

I next wish to apply myself to the other problems in their due order. I daresay and I hope it will be admitted that the function of a State, whether it is the Indian State who are the agents of the British Government on their confession, even their function I hope does not begin and end at the administration and the policing of this country. I hope their conception has within it a little larger practical realisation of their interest and their duty to the people whom they govern and from whom they draw their resources. If that is so, what is it that they have prepared to do by way of expenditure of the reve-

nues raised from them. The Army Secretary or His Excellency the Commander-in-Chief will say, nothing short of 45 or 48 or 50 crores will do for the matter of an efficient army. And it would have been very much better for the Honourable the Finance Member to say, "I dare not justify what I do, but that is what I am obliged to do". If he came to us in that spirit, we could better understand him; for what do we see? From 29 crores we went up to 55 crores. From 55 crores we have now come to 45 crores; and the comfortable or rather the uncomfortable assurance is given that we must not take it that the military expenditure is stabilised at 45 crores. That is the situation now. With us it is a moral question, a moral question in the sense that the manhood of this country cannot adequately raise itself to its proper height. It is not a question of the personnel of the mere ordinary soldier; it is a question equally of the personnel of those who command. It is no use asking, as I have constantly heard it asked during the last two months, when will this class or this group be Indianised,—a thing against which I have protested and which ought never to be asked. The answer is as soon as they are qualified. As if the question has ever been approached. And I submit that in the Indian State, whether autonomous, despotic or otherwise, if it were only the interest or exclusively the interest of India the question is not how soon they will be qualified, but the question is how soon you will make them or allow them to be qualified. That is the one issue. It is not impossible. How could it be impossible? Has any question of the Government of India and the application of its money been considered from this point of view? Here is a country where the honest expert adviser would merely say, "I wish to make the best of it". From the very necessity of the situation, has it ever been asked? Supposing for instance, the great Englishmen had not arrived here a hundred years ago does it mean that except where the Englishman resides, the rest of

the world is without arms, either in the personnel of the natives of the land or in the personnel of those who govern, command and lead them to success, as if this country had not Sikh officers and generals, Rajput officers and generals, Jat officers and generals, Mahratta officers and generals, Gurkha officers and generals, Mussalman officers and generals, and as if today the Nepal army has not its own officers and generals saluted by the British themselves. It, therefore, really means this that the question has never been approached from which it ought to be approached by those who, if they regard their offices as of trustees, would approach it. Here is a country with resources of every kind, mines, minerals, natural products, agricultural or otherwise. Can we and how soon can we make as much of it as would make this country self-sufficient? It is a test which they refuse to apply. They wish to drive us, in boxing language, merely towards the ropes, it being taken for granted that we must submit to the period which they have laid down, perhaps a period of Eternity. That is not the way in which we are prepared to face the situation. Those of us who stand on this side of the House have this view that it cannot be impossible and shall not be impossible if their vote counts for anything. It is the way of the Englishman, if he does not regard this as a different country, if he eats the salt from taxing my own people, to regard this question from no other point of view than this. Here are the men, here are the materials,—how soon can we raise and make an army of their own. I may have to submit to the inevitable I may have to submit to their power and to their dictation but I certainly shall not admit either the principle or the propriety or the decency or the justice of contrary argument or process. The argument in this House has been, "Oh there are two per cent. and five per cent. and in some cases it is three per cent." Only this morning in answering a question which I believe referred to the Air Force or other allied departments, it was said: "Oh, the numbers

are not available," and there the matter ended. The truth of the matter is this that the question has never been regarded properly; here is India's money: here are India's men: here are Indian resources; and here are we as honest servants of India: let us apply ourselves properly to the work: supposing you are asked to equip the army for the purpose of fighting, would you simply lay down your hands and say "Nothing doing"? Would you say "No, we are not in a position to do it"? When you found it necessary you raised the standing army from 170,000 to 14,00,000 and equipped it properly for the purpose of the empire: if it was possible then, it should have been possible in a lesser period of time if only you had an honest intention, a genuine desire to make of India what it could become. That is the real truth and that is really the criticism.

National Debt

Coming to the way in which the matter of the raising of the monies is concerned passing from taxation and expenditure to borrowing, on that question the policy for which we stand is this: all books on economics, indeed, testify to one great fact, that if a country must borrow at all, it must, as far as possible, never borrow at all events in those foreign countries who will make the borrowing an excuse to make that a ground of political domination. You will find that from the time of Adamson, where he has given instance after instance in which, under the excuse of lending money, the time arrives when the preservation of the credit, because money is lent, becomes the next easy excuse for a permanent domination and political and military occupation of that country which is illustrated by the history of this country. Our external debt is in sterling, and here I wish to point out how our finances have been dealt with by our trustees. A time arrived—I am sure, the Honourable the Finance Member can easily ascertain it if he looks into his archives—during the period of the War

when the rupee was not tied to the Juggernaut's car, but was free and the sterling stood at Rs. 8; and the time arrived, when the amount honestly to the credit of India by reason of the services and equipment and money which we had spent on their account on their own estimates, when the 200 crores which sterling debt represented could have been paid off and cancelled by credit and debit entries. But the time also arrived, unknown to the people how the accounts stood, when one day the Finance Member got up in this House and said "Yes you have assisted the British Empire more than any other part, more than any of the colonies who had freedom conferred on them, although India has provided 14 lakhs of men and every other form of assistance during the War; you must now make an additional gift of £100 millions out of the generosity and out of the bounty of proverty-stricken India." This was followed by another grant of some £46 millions out of which 29 millions were actually drawn; and, computing sterling at the then rate, it was perfectly easy for them to have paid off and be now without any sterling debt at all, but for the fact that £129 millions were made a gift of: but for that gift our credit and our debit on sterling account stood cancelled against each other. But at the moment when this generosity was drawn upon, nobody knew what was behind this great act of generosity. Of course it was a forced act of generosity which was made in our name: we had no power against it, except on the second occasion when I believe it was voted to the extent of £46 millions: but in so far as the £100 millions was concerned, no vote of this House was taken not even a formal vote of this House. That is the position at which we stand so far as the finances of the country are concerned and today I am one of those who believe that it is best as time advances not to incur any debt whatever in any foreign country. Indeed, the complaint has been made that India is a hoarding country, the complaint has been made that every Government loan is over-subscribed: facts are trotted out that the rate

of interest in India is going down: this is, then, the Finance Member's opportunity to call out all the resources—what he would call the stale unproductive hoarded resources of the country—in order that we may be free at all events of that claim which will always be made so long as some portion of the sterling debt remains for them to say "We have vested interests in this land, and it is for that purpose that we must keep hold on you." It is couched in different langauge from time to time, but its ultimate and actual objective and significance is always the same. I, therefore, submit that, in so far as we are concerned we stand for a policy that if and when borrowing is necessary at all the borrowing should be internal altogether; and the speediest measures should be taken in the speediest period of time to make arrangements at all events to pay off the sterling debt : I do not wish to intervene the issue here or question as to its propriety or its legitimacy or our genuine liability for the same. That is an issue which does not arise in this House.

Currency and Exchange

The next point to which I wish to refer is the manner in which the monetary system of this country is being used. I am one of those who believe that, in the matter of currency and exchange, while to the extent to which it is necessary and always necessary, the stability of credit must always be aimed at, I am not one of those persons who is going to make of that an excuse all the time to manipulate it with a somewhat difficult and somewhat different and an ulterior motive. Why should we be tied up to a certain definite ratio with sterling? All that we heard from the Finance Minister was an emphatic assertion, without any justification—almost an instinctive assertion when he got up and said "That will never be done". But has he ever attempted to justify it? because he knows in his heart of hearts that such a policy

of linking the rupee to the pound cannot, as a matter of economic measure, be justified, cannot, supposing India were to consult her own interests, be justified: let alone the claim of Britain that she is the moral guardian of India: I say it cannot be done if it were the interests of India alone that were to be consulted. But they know that it has one obvious result, and that result has been emphasised on the floor of this House, and that is that it confers some considerable percentage of advantage which may be easily calculated for trading between certain countries: that is the position in which we stand so far as that is concerned.

Be True to your salt

I shall now come to the question of the export of gold. A good deal has been said on the floor of this House in general terms: the question was discussed by the Honourable the Finance Member in the address he gave to this House in that opening speech: he says, that is the natural flow of this as of any other commodity from one country to another as a matter of voluntary selling. Therefore, he thought it was unnecessary, considering the matter from that point of view, for the Government of India to interfere in this natural flow at all. Taking the issues one by one: what did the other countries in the world do, whatever may be the opinion, the almost unfettered opinion of the Honourable the Finance Member of India? I would prefer to take the actual conduct of principal countries of the world in order to understand its economic consequences rather than merely rely on emphasis. If England feels that it is worth while taking gold, if France feels that it is worth while taking and keeping gold, how can it be that a contrary policy is good for this land? And he asks the question,—how is it to be done? He said—if an embargo was placed on the export of gold, he would have to buy the gold which people,

who are in distress, are obliged to sell, and he has carried out the thesis in this way; then we shall have to issue paper money equivalent to the price of the gold at which the Government would have to buy it, and he stopped at that, because, forsooth, he dared not carry that process of analysis any further, and it is my duty to carry that process of analysis to the next three steps. If ever the State of India was forced to that condition, what is the harm that is going to happen, and what is the gain to be made out of it? If the Government of India had to buy the gold and for that purpose to issue money, the first and foremost thing is that, in so far as that money was issued against gold, it cannot affect the stability either of the monetary or any other credit of this country, because, for the test of this stability of currency, what is it that you have to back it with when you have to exchange it for any kind of metals which you have set up as a standard for the purpose of exchange, so that issuing paper money against an actual accumulation of gold in the hands of the country cannot be an evil at all. In the second place, it will have this great advantage which somehow or other is an anathema to the Honourable the Finance Member,—it will have a tendency to give a certain relief in the depreciated prices of the natural products of this country. He said the other day, and it has been suggested so often, and, therefore, I have taken the trouble of examining this question,—he said that by calling a penny a tuppence, you don't produce wealth. I agree with him in that verbal proposition, but where I disagree with him, I shall presently show. Where the prices of commodities fall, what do you do by calling your penny a half-penny? You recover the same sum of money on taxes from the people who have no other sources of paying them except by selling their agricultural and other products. They have, therefore, to pay twice or one and a half times the quantity of their produce to pay the same sum of money, in other words, under cover

of the same denomination, you recover $1\frac{1}{2}$ times of the taxes, and the bloated salaries become 150 per cent. that is to say, 50 per cent. more than they really ought to be. In other words, when it suits you, you call a penny a half-penny. That is so. He says, it does not matter. I am merely asking what are you taking from the people of India in the shape of taxation? If you take your 86 crores of rupees, you are very glibly comparing that 86 crores with the earlier taxes of previous years. It is an entirely unfair, uneconomic, unjust and a veiled form of imposing 50 per cent. additional taxation. But that can be endured, but a little rise in the internal prices of the commodities cannot be endured. He says that is inflation. It is a dangerous experiment. That is his economics; at all events, so far as we are concerned, though perhaps we may not have the right and the authority so to do, we are speaking with a considerable amount of knowledge, with a considerable amount of restraint, and we dare put to test, if we had the right and the authority and the power to do so. President Roosevelt can be laughed at in the comfortable and irresponsible atmosphere of this House, but his results cannot be wiped out from the United States. He is a responsible man,—I hope he is certainly much more responsible than the Honourable Sir James Grigg. He represents an infinitely wealthier, infinitely stronger, infinitely more educated class in his country compared with ourselves and yet he has dared to try that experiment, and he thinks he has given relief to his people. His people think they have got relief, and yet we are to be governed and tutored by a doctrinaire economist who comes and says: "You will not try that experiment, I will not let you try that experiment so long as I stand here professedly in your interests". Sir, I have never heard such a grotesque statement. A man, may be my adviser in my pay for the purpose of looking after my economic situation, says: "I will not try an experiment, I will not let you try that

experiment"—because I know he is in that strong position, and because he knows I cannot displace him. But that position cannot last long, that sort of arrogance cannot last long. They may call us futile. Indeed, we are futile,—I agree with what my friend, Mr. Fuzlul Huq, said—we are futile in the votes that we are giving. You may be quite certain, whether you accept them or not, every single refusal that you make means you are digging a grave for yourself. I know that no amount of ridicule, no amount of contempt, no amount of facile easiness will ever quench the sincerity and earnestness of our people to take charge of those new affairs. We are those who dare put to test the theories for which we stand if only we had the right and the power to do so, and all that we call upon you to do is this,—if you must serve us, at all events, serve us, but do not serve another country from which you come, At all events, that is the honesty, that is the standard, that is the economics that is the application which we always demand from you, and those of us and those of my other friends who belong to this land need make no other appeal to them at all. Therefore, I say that checking the flow of gold from this country is not going to do the least harm to India; but it will have the result, in a small measure, to relieve the fall in the commodity prices today, and remember, if you are honest in framing your budgets, you must attune them to the conditions of this country in which the people are very poor, in which the people can only pay taxes from what they grow on their land in so far as land revenue is concerned. In so far as all indirect taxes are concerned, you are really by maintaining the same nominal amount of taxation increasing the taxation by 50 per cent. and yet the military Moloch is not satisfied even by that. We are told: "Don't think that we are going to spend over the bloated services, no, no, but we must have our cut restored." But may I ask the question—if the prices of commodities have gone down 40 per cent. could you not bear even a five

per cent. cut in your salaries? Suppose you were true to your salt would you say *this*, "Let us take from the country its real equivalent of taxation and at all events release the rest for the benefit of the people"; at all events every man, who serves this country on salaries above Rs. 200, ought not to find himsef in any difficulty whatever if he surrendered back to the country what belongs to the country and what the country cannot pay.

Imports and Exports

That brings me next to the question which my friend, Mr. James, often asked—what about the exports and imports? Sir, I am one of those who believe,—and I am also in a position to put it to the test had we the power and the opportunity to do so,—I am one of those who believe that India is a country which can be thoroughly happy. It need not be wealthy, but it can be thoroughly happy being entirely self-sufficient to the extent to which you will allow it to be self-sufficient. I am one of those who do not believe that the inflation or increase of exports and imports,—that is the usual phraselogy employed in the Annual Reports,—is a necessary indication of the prosperity of a country at all except perhaps a highly industrial country. I daresay, and I admit as an ordinary proposition of economics that we cannot always pay those in gold by importing more than what we export, in other words, in the normal course of trade, the two must balance as reasonably as possible. That proposition is not denied, but what is denied is that the increase of exports and the increase, therefore, of imports do either or both of them taken together necessarily indicate the prosperity of a country. For it is easy if you look at the exports,—and I will give you the figures which I have got here and show you what it is possible to do.

An Honourable Member :—What is this Book ?

Mr. Bhulabhai J. Desai:—This is the Indian Year Book,

and I am using the figures which are authenticated. But it is not so much the figures which I am concerned with, but to test the issue whether it is necessary at all to test the prosperity of a country by what is called the increase of imports and the increase of exports. In a country like India, which can have enough internal trade, it is not at all events necessary, except, as I have said, for the purpose of paying an obligation that I cannot avoid in any foreign country, to export anything at all. And I will deal in a moment with what happens to cotton.

I know I have got here a gentleman who has stated two propositions with a confidence which I think he ought not to have applied to this matter. He said two things, the first thing he always thought of was about the purchase of cotton by two foreign countries, in particular Japan and England, and he also stated glibly that there was room in this country for textiles from foreign land. I am presently going to deal with his observations, but let me continue the point on which I am now. The point on which I am now is this. Let me first read to you the first six items of imports of this country. Cotton and cotton goods, 1932-33, 34 crores of rupees; machinery and millware, Rs. 4 crores; metals and ores, Rs. 9 crores; oils, Rs. 8 crores; silk, Rs. 4 crores; sugar, Rs. 4 crores; instruments and apparatus, Rs. 3 crores; the rest I do not wish to read, because they are in small dimensions. Which of these cannot be manufactured here? As I have said, it ought to be possible and must be made the policy of this country. Why is it impossible, when a hundred years ago, we were able to clothe our country, when we were able to export our textiles to other countries—by the mere fact that you have the spinning jenny and the power loom does it mean that we should for all time depend upon you that we should export Rs. 34 crores worth of produce of this country in order to balance our import of Rs. 34 crores worth of textiles? It is perfectly competent to this country to make

itself entirely self-sufficient and I do not know where my Honourable friend, Mr. Mody, gets it from—that there is some kind of cloth, for health or for comfort or for what I do not know, which this country cannot produce for its own clothing, that it must go to a foreign land? I leave him to his absurd dreams and still more to his absurd policy. Because what is there in the cloth produced in this country —what quality is it, has it poison in it? What is it that is impossible to do in this country?—If we have displaced two-thirds of the cloth already, why should not we be able to displace the rest of the one-third? And here my answer is that it is possible to balance my foreign trade without an export of 34 crores worth of actual raw produce. But I shall be asked the question, and that question also I propose to answer. I ask the question next, but what will you do with your raw products? My answer is twofold. In so far as the raw produce is concerned, I will call your attention again, if you will allow me,—I will read also the heads of principal exports. Jute raw, Rs. 9 crores; jute manufactured, Rs. 21 crores; and it is admitted that so far as 30 crores worth of jute produce is concerned, it is a monopoly of this country and you need not fear that you will not be able to export it. Then, I come to cotton raw, 20 crores worth,—in other words, if what I have learnt —and I have investigated the matter in great detail—about six to seven annas worth of cotton requires nine to ten annas worth of cost in order to make it into a cloth of an ordinary kind. That was the estimate that we got when we ventured to form the Swadeshi Sabha, a little larger institution than the Bombay Millowner's Association, of which Mr. Mody was the President, and from which he has now withdrawn his great protection and he now serves himself in another industry. That is the economics he wishes to teach me.

At all events, there is no reason which Mr. Mody can give which any sane man can be convinced of, that

cloth cannot be produced in this country—which may be poison enough for him, and I have no quarrel with him, but a good enough cloth which can be produced in this country and avoid this import of 34 crores worth of textiles. If we could do it before, why should we not be able to do it now and why should I go and enter into a pact, in order that my name may be mortalised or immortalised, in order that......

The whole point is this. Can we or can we not displace the import of 34 crores here? That is the issue, and if we can, here we have the avenue of being able to keep the raw produce of the country within itself, and I next proceed to answer the question, what will happen to your cotton. I will not now refer to any gentleman by name, so that he may not feel offended. It is quite clear that Japan is buying cotton, and I was told the other day, and that is the kind of threat to which I was accustomed, "Oh, yes. Japan was on the eve of changing its machinery in order to consume American cotton. But, forsooth, in order to oblige India, she purchases a million or a million and a half bales of Indian cotton". I am not one of those who believe that a Japanese or an Englishman for that matter is so charitable as to buy your cotton if he does not want to, it is a theory which I cannot accept, it is so contrary to human nature. I am one of those who believe that out of the 20 crores that we export, it is perfectly easy to so adjust, and that is what brings me to my next point, a planned economy of this country, not the kind of economy to which my Honourable friend, Pandit Govind Ballabh Pant referred, but a planned economy of this country. There is no reason why this country should not plan its agricultural operations in the same way as is done in other countries. There is no reason why, if we were able to change to cotton from foodstuffs in the hope of getting higher prices in those times we should not restrict our produce of cotton and use the land for the purposes of produce

of food, for, so far as the total produce of food in the world is concerned the average is not of much use to us. If the food in the world is more than sufficient for the purpose of individuals, so far as India is concerned, the outstanding fact remains that there is not food enough except for one meal for a large part of the population of the country. Therefore, there is room enough for expansion in this country, of the produce of more food to be redistributed within the country itself, and I am not at all terrified by the fact that we shall not be able to export that food to foreign countries. In fact, I do not wish to do so. I am one of those who believe that our foreign trade should be so balanced that we shall be able to produce as much of manufactured goods in this country as we can so as to enable us to prevent our raw produce being exported outside. Therefore, I am not at all frightened by the idea as to what will happen to our imports and what will happen to our exports. It will be the business of those who are in charge of the State to see to it, if cotton is produced in quantities which cannot sell. In fact, even the State would not be required. Natural economics would adjust themselves. If cotton cannot be sold at a remunerative price, people would not be so foolish as to leave their land fallow, but they will certainly cultivate in the same land food which atleast they could eat. In fact, I will go further and say that I am one of those who believe in the answer that the Honourable Mr. Gokhale gave to the Welby Commission :

Nationalise key Industries

"I would rather have my land fallow than cultivate it for my neighbour's benefit."

I have not the time to analyse projects like the Sukkur Project and other projects which are intended to increase the products of the country, but the question is how much of it remains here for the person who grows it, for you have got to provide for the 30 crores which have been

spent, the machinery that has been brought and the skilled labour that has been applied to it. You have, therefore, to provide out of what grows, in addition to the land revenue, for the purpose of the annual interest and the ultimate sinking charges. Take it from me that so far as we are concerned, we stand here for a policy of self-sufficiency. We are not of those who believe that it is not at all necessary for the purpose of the true advancement of the country that its exports and imports should necessarily swell, but they should be so adjusted as to make India thoroughly self-sufficient which it has the capacity of doing by reason of the manifold products of every type that this country can produce. We stand for the nationalisation of all the key industries and of the utility services of this country. We maintain that position and we are proud to maintain that position. If private industry tries to squeeze the consumer, it will be the duty of the State, if the State is right, to protect him and to provide the service at the minimum reasonable cost and without any profit. If the State acknowledges that it is incapable or inefficient in its management, it is the State's acknowledgement of its own effeteness with which I am not concerned. I am thinking of a State which believes in itself, and that brings me last within the few minutes that are left to this discussion to this question of planning.

I congratulate my friend, Mr. Milligan, and entirely agree with him in the observations that he made during the course of the cut-motion which my friend, Mr. James, moved before this House. I may not agree with him in all the details and in the reasons that he gave, the only reply that he got from the Finance Member was that he was a Socialist. I would rather be a Socialist with Mr. Milligan than a free trader with the Honourable Sir James Grigg. That is the position that I take up and we say all the time that it is the business of the State to so reconcile the interest of the consumer with other interests as to bring about an all-round development of the country. We have often heard

a specious argument, sometimes in this side of the House, but largely on the other side. When it suits them, the consumer's head is brought out, when it suits them, the industry is brought out, and it is difficult to understand which one they are going to bring out at the next opportunity. In our opinion, and in our judgment, there is no real antagonism between the two. It is the duty of the State to co-ordinate the two—a kind of duty which on a larger canvas might well be found written into the beautiful speech of my friend, Mr. Milligan. We stand here for a policy of discriminating protection, but there is one more amendment to that policy which ought to be added. That policy does not include any new industry at all. So far as I read it, I am content with that policy if my reading is not incorrect. In the large interests of the State as a whole, it is essentially necessary that the consumer should tax himself and that is what happens in many countries, and now I shall turn to a few remarks of the Honourable Sir James Grigg.

Turning to the subject of industries, he said that the world's desire was for national self-sufficiency and if my friend is right, then I hope that everything that I have said ought to be right. If we stand for national self-sufficiency, do not other countries also stand for national self-sufficiency from the point of view of the consumer? If by reason of a conflagration a country should find itself in the miserable condition of being cut off from its food supplies, would it not be justified in taking every possible step to be self-sufficient within her own borders? That must be the aim of every country, much more so in India. Here is the money that we raise from the country and it should be possible to say how it should be spent so as to make for real development of the country and not simply preserve the country for other lands. The latter cannot be the object; that ought not to be the object but if that is the object, we are quite right in saying that such a policy is unsound and such a budget cannot stand the test of any popular vote in any Assembly whatever.

FINANCIAL ADJUSTMENTS BETWEEN BURMA AND INDIA

26th March 1935.

Sir, I regret very much and I think every Member of this House will join with me, in the manner in which this House was addressed today. I think the House deserves to be treated with certainly much greater courtesy. Argument is one thing; but assertion is certainly not very much appreciated. The points of view that I wish to place before this House are very brief. The question is not a mere technical constitutional proposition. It is not denied that it is a matter of constitution. Honourable Members of this House, sitting opposite, represent the broad interests which are allotted to them for the purposes of their portfolios. That is not the issue. The true issue before the House is that there are interests, not merely governmental interests but the interests of the country at large, both of public finances as well as the finances of the traders concerned in this issue. The only issue that I know that is before this Tribunal is how to allocate the past and future liabilities when Burma comes to be separated from India. It is an issue which has been neglected all the time, but it does not matter, I always face the issue. I may be told that it escaped the attention of others. It conveys no reflection in my mind of any kind whatever that it did escape. After all, if matters do not escape, there would not have been even in case of civil tribunals no less than three appeals right up to the Privy Council, and at the end of which too it may easily be found that the point was missed. Therefore, the mere argument that a point need not have or ought not to have escaped is no argument for saying that people who wish to be represented and whose interests are determined ought not to be represented. The short question before the House is this—for what valid reasons did the Secretary of State go back upon a

representation,—I will not call it a promise,—for what valid reason did he go back upon a representation with which, according to Sir George Schuster, the Government of India was in agreement, that Indian interests would be represented, —and at least one of the forms of representation then contemplated was through the Members of the Standing Finance Committee of this House. It may easily happen that the then Members may not be present now. The one important question, which I attempted to raise yesterday at question time was the main question which would have to come up before such a Tribunal if that name is to be given to this *rapporteurs*, because I am told now that they are no better. It is not merely a question between India and Burma, and the very fact that it is made to be represented as a question between India and Burma is our first grievance, the idea being that all other claims ought to be thereby suppressed. The first and foremost question is the whole of the cost of the conquest of Burma was debited to the Indian revenues. I understand that throughout all these arguments the question has been, whenever the question of allocation has been raised,—"Oh, yes, as a result of these conquests India has become bigger and greater by reason of the annexation of these territories as part of India", and that is the only way in which a justification has been given to put down to the debit of India the cost of the conquest of these countries, but if they are to be given up,—it does not matter whether they are to be given up at the request of the Burmans or they are to be given up for the convenience of the Britishers or for purposes of any Imperial policy,—but if they are to be given up,—who is to bear those charges which only, on the hypothesis that they form part of an extended India, were thrust upon us. I daresay that the Government of India, considering themselves as one entity, believe themselves to be Burmans, believe themselves to be Indians, believe themselves also to be Britishers. It is not a matter of honesty. It is a question of looking at it from a proper point of view. Has ever a question occurred

to the Finance Member of India, either to the present Finance Member or to his predecessor, that a very important question involving crores of rupees is at stake not merely as between Burmans and Indians but as between Burmans and Indians both *vis-a-vis* the Britishers. That is the real question which we would have been entitled to raise. We would say that in so far as any allocation is concerned, inasmuch as it would refuse to listen to us it would not be doing justice. Therefore, the primary question is that the whole basis of that tribunal was never announced. I should like to know, though I did not hear from the Honourable the Finance Member at all, as to whether the Government of India was consulted before this tribunal was appointed a week before the question was answered in the House and the communique was issued. I am inclined to think from the absence of information that the Members opposite themselves were probably not aware as to what was happening during the interval. Therefore, it is no use complaining that two years have gone by, that there is a body to whom a case has to be presented, so that they are as much ignorant as ourselves. They have represented no case on behalf of India. It is not a question of the competence of Mr. Nixon that is in issue. The question is when was the Government of India informed about the constitution of that supposed Tribunal and its creation, what time did the Government give to prepare the case at all events from the Indian point of view? It is not a question of competency or otherwise of Mr. Nixon; an officer who was appointed for the purpose merely of representing the views of the Government of India. He represents the opinion of nobody; their work is merely a preliminary preparation of materials—in so far as Mr. Nixon and Sir Henry Howard were concerned. The question, therefore, is that the Government of India and India ought to have been appraised that a tribunal was going to be appointed, and they should have been asked what they had to say as to its constitution. That was not done. Then, after the tribunal was appointed, sufficient notice ought to have been

given to the Government of India and the Indian public generally, or at least to this House so as to ask them what case, if any, they had to present before this tribunal. This Report is no case of any kind, it is merely a collection of materials on which a case is to be based. Therefore, you always raise a wrong issue, and you think you have answered it by saying that Mr. Nixon is not dishonest. We are not here to tell such things. The whole question is, if we had a fair dealing first before the appointment or the constitution of this tribunal, after its appointment, and if there was sufficient time given to present the case both by the Government of India, and associated with the representatives of the Government of India, representatives of the Indian people in any form howsoever constituted. Then, the other question was not also raised as to whether or not this allocation was merely a matter of accounting between India and Burma, but also whether the British Government had not a certain amount of responsibility and liability. Inasmuch as all these three things have been omitted, this House is entitled to express its opinion in terms of the motion that has been moved.

INDIAN FINANCE BILL

6th April 1935.

Mr. President, it would have been the barest act of duty to those who voted for the several amendments to the Finance Bill, if only the Finance Member had considered and reconsidered the matter instead of merely adhering to his decision. The fact, however, remains that, in the exercise of the powers vested under the Government of India Act, within the four corners of which I must remind myself at the beginning of probably the last address that I shall deliver in this Session—within the four corners of that Act, there is such a thing as the present situation which has arisen by reason of the recommenda-

tion which you, Sir, read out to the House yesterday. The recommendation is that this House, notwithstanding the overwhelming vote which it gave on the several amendments amending the different provisions and clauses of the Finance Bill—this House is told that its opinion has neither any value nor any effect in the eyes of those who govern this country. To call it an insult is a hackneyed phrase, and so I won't use it. But the fact remains that we did our best not to throw out the Finance Bill at the consideration stage, and we did that advisedly, in order that it may not be said that we were—a matter which I propose to examine at a later stage—irresponsible men, not understanding either the business or the art of Government, and, it is with a view to repealing or preventing such an impression being created against us, that we thought it right to allow the next stage of the consideration of the Bill clause by clause to come before the House, so that we could give an opportunity to every Member of the House and every section of it to express its opinion as to whether it was satisfied with the provisions the initiation of which undoubtedly lies with those who are in charge of the Government.

Appeal to Conscience

I should like, at the outset, to inform the House of the vast majority by which the amendments, which we are now asked to take back in the Bill in the form of a recommendation, were passed by the House. We are asked to swallow the opinion that we deliberately came to and every section of the House owes it to itself to think aloud, to put its hand on its conscience, its categorical imperative conscience which is not awakened merely occasionally, but which, I hope and trust, will stand by every man during the time at all events that this Session lasts, that it shall not be a case of the conscience awakened once and laid at rest whenever a behest came from other quarters. Let

conscience assert itself irrespective of the consequences, irrespective of cold steel glass, irrespective of cynical smiles, irrespective of assertions, irrespective of assumed frowns. Let me assure every Member of this House that none of those considerations have any value against the conscientious opinion which he has voluntarily and willingly given in support of the amendments to the Bill.

Sir, the amendment to the salt clause was carried by a majority of 63 against 55, the income-tax clause 73 against 42, the two-pice postcards by 79 to 44, the one anna envelope 88 against 35, and a reduction of the pattern and sample and book-post by 84 against 39, so that it cannot be said that it is only those whom I represent, the Communistic caucus as it is described, who have succeeded in turning the vote of the House against the proposals of Government. It is my duty indeed on this occasion at all events to justify and vindicate the position we stand for, not merely in terms of generalities, which sometimes is a charge levelled against us, but in such definite terms as I can command, in order that our position may be appreciated, and in order that those who supported us in the measures we took, notwithstanding the earlier measures in which they did not join, may continue their adherence first to their conscience and next at all events to the truth of what they have voted for. The matter on which I wish to lay a few observations is not so much in the matter of the description that has been applied to my Party, because I am one of those who, during a somewhat long and arduous career at the Bar, have been accustomed to a considerable amount of strong language. It has never affected me in so far as my nerves are concerned, of which I wish to give an assurance to my Honourable friends opposite, but when the description is of a nature which may perhaps reflect on the quality of the men or the opinions which they represent, I think it is up to me to present such

vindication, as I can, both before this House and the larger world to which it has gone forth in the name of the Government of India. With the present, not merely coquetry, but almost wooing, of the only Communistic State in the world by the Britisher, it was a somewhat ungracious remark to make on the part of my learned and Honourable friend. I call him learned, because I respect his learning, and that is the phrase also to which I have been more accustomed than the phrase "Honourable". He has both learning and honour, and if he preserves them for the purpose of the consistent policy of the Government which he represents here, I have not the smallest doubt that he would have thought over several times before at all events he thought it fit to brand us with a mark which in the world we could not go out with. Let him consider and his principles consider that times arise always in the history of men, and it will soon arise in the history of this country as well as in others, when all these epithets will recoil in the manner of, what is called in the language of a certain type of sportsmen, a boomerang by which they themselves are hit, and I hope and trust that, as a mere matter of description, the other side will consider carefully and weigh the words which they use, in order that there may be mutual respect for our respective positions. That is the least that I could expect of them. Their conduct, their attitude, all have shown where the caucus exists. I have heard of cabals, of juntas. I have also heard the word caucus, but let them remember that the use of that word applies in an infinitely greater measure to that irresponsible bureaucracy which they represent.

It is not so much as a mere matter of returning word for word that I have used that expression, though even there I am justified by what my Honourable friend, Sir James Grigg, said—Am I not to hit out when I am criticised—Am I merely to speak in measured terms of

cold logic, in order that you may understand? Let me remind him that sometimes a cold steel cuts different from a brand of the type that he is using, and he may remember, during the time that will lapse before we meet again, that there is a little better description that we deserve than that which he has attempted to give of us. Indeed Communistic we may be if the meaning of that is one for which Governments from time to time change their attitude. I know very well that a thing which is an offence one day becomes a friendly act in another and, therefore, these are things which, in the varying circumstances of time, have different values and different attributes. I would not be surprised if, after a time, the Honourable the Home Member himself is obliged at the behest of his principles to release every man who has been accused of Communistic views, for they could not very well be allies of a Communistic Government of the world and yet punish those very principles in another light. If that is their attitude, all I can say is that they will have to answer not only to us, but to the rest of the world. Their petty power will last for a time, but that is not a matter which affect us, for ours is a case of conscience. Ours is not a case of expediency.

Refuses to be Terrorised

Therefore, it is, that I appeal to my friends on the opposite side that we claim to represent our countrymen a little better than they pretend or profess to represent them and pose as their trustees. We shall, therefore, never degrade ourselves to a position of vituperation, not of even hitting back. Ours, at all events, will be a position of vindication as I said before, and that is how we shall part during this Session. I declare openly that even if the term has a punishable meaning, it would not terrorise me. If it means that I represent ideas, policies and principles for the more beneficial progress of the community

to which I belong, then I am indeed proud of being branded a Communist. If Communism merely means that, we are proud to be Communists, for, after all, we stand not so much for words as for deeds, not so much for mere ideas punishable at convenience, but for ideas enforceable for the common weal of the greatest number of my people. It is that for which we stand; and if we stand for that, any designation, any description, is not only not humiliating, but it is a description of which, I hope and trust, we shall ever be proud. As regards the caucus, if it means that we have maintained discipline, that we have had solidarity, that we have had strength, that we have had intelligent co-operation, and not only so, but, by reason of our sincere and honest and straightforward attitude, obtained the co-operation of all the other sections of the House as indeed I have shown by the votes I have recounted, I am glad to be able to say that, in so far as that is concerned, we also stand guilty of the charge. In no other sense are we a caucus. Generally speaking, caucus is a term which is related to people who use, and, in due course of time, abuse power. Power, Sir, creates fumes in the brains of those who possess it, and particularly where they are not accountable for it. Those fumes ultimately get into a toxaemia which is the situation that we have reached in which they are unable to see themselves as others see them, as they would themselves have liked in a little less unclouded situation to look at themselves. Then, perhaps, they may have appreciated that, out of a long budget of crores and crores and crores, a sum of some five crores could not, after all, be impossible to be reduced if the Finance Member were under our behest, if we had any power, if he had been our servant, if he had been utilising his knowledge, not for the purposes to which he has placed himself, but for the purposes for which we stand. After all, what did we do? Why should every single Department of Government have everything they want up to the last pie, but the poor man not even

that? The army must have it; I take the description of my Honourable friend, and again apply it. He says it is an army of occupation, and they cannot do it with anything else. "The Commander-in-Chief," he says, "has told me that anything else will not be sufficient for quelling internal disorder and for external protection. So he must have it". Then services,—they cannot stand a cut of five per cent. Poor devils, and I am not using language in any sense which is not thoroughly parliamentary,—poor individuals that they are, they seem to imagine that a five per cent. cut out of their salary could not be maintained. It means two crores roughly speaking, combining the Railway budget with the rest of the budget; two crores of rupees, when the standard of prices has fallen by 40 per cent.

The other day, I asked a question of my Honourable friend to which I have never received an answer. He was fond of the phrase that he used. He said that, by calling a penny tuppence, you do not create wealth. But indeed he calls our penny a ha'penny and takes it out of us. His salary represents 1½ times the quantity of raw material which the poor man has to pay in the shape of taxes in the name of the same denomination of money which he continues, or would not allow, as he said, to be manipulated, but which, according to me, requires a manipulation for the benefit of the poor man in this country. But the fact certainly remains,—and I am dealing with the assertion that is made for the purposes of recommending this matter to us,—that Government find themselves unable to balance their budget. Poor Government of India! It will lose its credit in the world; and, therefore, in your own name, for your own good, for your own advancement in other lands, who look up to you and lend you money and who are willing to lend you money, please preserve our credit there. And what credit? That you must not touch a single pie of the rupee that we have voted to ourselves,

because you know a part of the budget is non-votable. And it is my duty, therefore; at all events, as briefly as I can, to indicate that if there was the smallest desire, the very smallest desire, to meet the opinion represented by those of us who are here at all events elected by all classes and communities, I have not the smallest doubt that the Government of India would have reconsidered their position, would have accepted the amendments even at a certain amount of risk. But we are not to be met there.

Who is Irresponsible?

I am using the words of one of the most honourable men and a prince among men who was my predecessor in this place and spoke some 11 years ago. He said we are always charged,—and I am afraid the same charge is levelled at us today,—we are always charged as being irresponsible men. He said: "I have learnt a little English",—so fortunately have I,—"and I understand the meaning of words. A man responsible for his words, for his acts and deeds,—that responsibility I possess. But it is you who initiate measures of taxation, it is you who vote yourself even if you do not wish it, it is you who raise the money, it is you who spend it; and yet even when we raise a little cry of difference, we are irresponsible. Our responsibility is that we must go and agree." We are invited here, Sir, to a prepared programme to which if we assent, we are responsible; if we dissent, we are irresponsible. If that is the meaning of the word "responsibility", I know only one responsibility, I recognise only one responsibility, both in the sense of fitness and otherwise. I am responsible to those who have sent me and responsible to my land; and, above all, I hope and trust, in fulness of time, I and they are responsible to Providence. And I trust they will bear that in mind. They cannot bear responsibility to us but they undoubtedly bear responsibility in the account they will give in fulness of time.

Therefore, it is, Sir that I am referring to the two crores of rupees which were restored on a pledge, if you please. And what sort of pledge? A person promises himself that he wishes to take a certain thing and he says, "Now I have given myself a pledge, and if I do not fulfil it this year, what shall I do? That is the meaning of the word "pledge". I wish to analyse every single word, every single name, every single formula, every single phrase, by which they have created this delusion and this deception. It says, "We are only fulfilling a pledge. We pledged ourselves that though it was unwillingly taken from us in the force of circumstances, as soon as circumstances permit, we will fulfil the pledge." This, Sir, is a kind of selfishness, another illustration of which it is difficult to find. It is the strongest instance of an unenlightened selfishness, particularly considering that, from the tax-payer's point of view, they were really 1½ times their salaries, and five per cent. out of that they could not and will not forgo. I am one of those who stand here and say that if the Government of India had the smallest sense of any decency, any honesty, any genuine desire for the good of the people, any respect for this House, they would have voluntarily produced five crores of rupees without the smallest difficulty by the very smallest cut in the salaries of their bloated administration. What is the difficulty? There is no difficulty in balancing the budget. Of course the difficulty is as is created. I first start it, then I say I have not got it. Of course, it is the easiest thing to argue. It is irrefutable logic, but it is the logic of selfishness which we cannot bear and will not tolerate. Why is it impossible to produce five crores of rupees? As we understood it, five per cent. represents two crores. So five crores would mean 12½ per cent. of salaries. Supposing it was cut down, the heavens would not have fallen. My friends would have been in the same comfort and luxury perhaps a wee bit less, but what does it matter? But it matters to them; what does not matter

to them is the well-being of people. And therefore, it is that deception comes in,—and it is in the purely legal sense that I use that expression. This deception that this situation is forced upon the Government of India by the irresponsible vote of this House is the very worst deception that I have ever heard spoken in any public assembly. For what is it that they say? We cannot produce five crores of rupees to meet your demands." This is the substance, this is the gravamen of the complaint and the pitiable complaint with which they have come here: "Please restore the budget, but if you do not, we will call you irresponsible people." I would rather be irresponsible and take the responsibility for doing what I did, and call upon the Government in the name of their own conscience to produce five crores from all possible sources that they can, in order only that our respect and our vote may be vindicated and the people's relief to that extent may certainly be forthcoming. Of course, we shall have to tell so to the Government. It may be our misfortune to have to stand out, to be barred out, but we shall have to tell Government that though they look powerful when it comes to a question of a small grant, yet, when we ask them to do a particular thing by a vote of this House, an overwhelming vote, in which every section of the House joins us, they are at least in such a measure so niggardly, so narrow and so cowardly as not to listen to the unanimous vote of this House. For what does the vote of "84" represent except this, and there I will not give any further description. That is the position in which they stand. Of course, you can stand, you can stand mute, you can look powerful, but your power will be a real power, only if you use it for the purposes for which you call yourselves trustees. It is no power, if you simply take advantage of the position in which you stand naked. In fact, I congratulate the Honourable Finance Member on the very short and brief statement he made. He realised the case he had. He had no

speech to make, he had nothing to offer; all that he had to say was: "If we take away everything you have voted down, then we have no money, you please go home and tell your constituencies, 'we have spent all their money and, therefore, we have nothing to give you by way of relief." Is that what we can ever expect? Is that the manner in which this House can ever expect to be treated?

Canadian Example

Here I should like to call attention to the description that Lord Durham gave, so that my Honourable friends may remember the situation in which they stand here today as the situation was in Canada just about 100 years ago from today. This is the description that Lord Durham gave:

"It is difficult to conceive what could have been their theory of Government who imagined that in any colony of England a body invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the opinion of Englishmen, are inherent in a popular legislature. It was a vain delusion to imagine that by mere limitations in the Constitutional Act or an exclusive system of Government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control, could confine itself to the mere business of laws, and look on as a passive or indifferent spectator, while those laws were carried into effect or evaded, and the whole business of the country was conducted by men in whose intentions or capacity it had not the slightest confidence. Yet, such was the limitation placed on the authority of the Assembly of Lower Canada." —Precisely the constitution of which I was reminded both when I came, and I shall always remember it both when I go—

"It might refuse or pass laws, vote or with-hold supplies, but

it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the law officers, and whatever heads of departments are known to the administrative system of the Province, were placed in power, without any regard to the wishes of the people or their representatives; nor indeed are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honour and trust."

What a truth 100 years afterwards as applied across the Continents! The only question for the supporters of Government today and those honoured by them is the qualification of hostility to us who represent the vast majority of the people of this country. That is the only thing that stands as a mark of honour for those who get the honour from this Government: all honours to them. All our honour is the simplicity of our own names, our own private personal fame, names known to our men, known to our brethren, and that is the greatest honour we want to enjoy. Indeed it is here shown how it is that the same set of Government, the same set of ideas, the same set of circumstances govern the same set of narrow minds, but a time does come when individuals may pass, but the system will have to be altered, and the sooner it alters, the better for your honour and the better for our self-respect. Let me continue what Lord Durham says :

"However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy retained their offices and their power of giving bad advice."

I say with a full sense of responsibility that advice tendered on this occasion by the Cabinet to His Excellency the Governor General was positively a bad advice.

Assembly A Mockery

Indeed the Government could have easily found five crores, indeed they could have allayed and pacified the people. It might not have been any measure

of real advance, but certainly it would have prevented this Assembly over which they spent millions for the purpose of election, or at least made people do so, from being a mockery in every sense of the term. Why should the forms of law and the forms of Constitution be abused if they are going to frame like that? The Government of India Act does not say that, because we vote, therefore, like a shrew in the Taming of the Shrew they must refuse that. I have not a word in the Government of India Act to that effect. I think the Government of India Act was that if we voted, they would respectfully consider our vote and give effect to it. That is what I think was the intention of the Government of India Act, unless the Government of India Act is read in this way, that because we vote, they must refuse, If that is their conception of the Government of India Act, that at least is not mine. Then, the quotation from Lord Durham goes on:

> "If a law was passed after repeated conflicts, it had to be carried into effect by those who had most strenuously opposed it."

I am presently going to state a few words as to what law means in your eyes and what law means in our eyes:

> "The wisdom of adopting true principle of representative government and facilitating the management of public affairs, by entrusting it to the persons who have the confidence of the representative body, has never been recognised in the government of the North American colonies. All the officers of the Government were independent of the Assembly; and that body which had nothing to say to their appointment, was left to get on as it best might, with a set of public functionaries, whose paramount feeling may not unfairly be said to have been one of hostility to itself."

Sir, 101 years after the time this was written by Lord Durham in respect to Canada, it is only too true of this land, not only too true, but you may almost substitute the word "India" wherever the words "Canada" or "American

Colonies" occur. You cannot have a truer picture of the situation. Undoubtedly there are those of us who, by reason of supposed loyalty to office, are undoubtedly bound to echo their sentiments, and I have nothing to say about them. I give all my sympathies to them, because they are my countrymen, and I give these sympathies to them whether they take them or repel them.

Law Defined

The position of law in these matters is this. If a law merely means this as I have understood in the definition of Austin, the command given by a Sovereign Authority who has sanction behind it, then you may be quite certain that everything that this Government does is law, for, indeed, it affects on what it gets. The more power it has, as soon as the smallest resistance occurs, it abuses what it calls "laws", because it has sanction behind it. For what purpose? In order only to enhance and strengthen the power and use or misuse their powers. That is not how I understand law in the broader and the larger and the more judicial sense of the term. I understand law to be a course of conduct for the guidance of men —whether it be the Statute of an Assembly or even a law passed by a despot,—a course of conduct for the guidance of men, in order only that the best interests of society may be served. That is what I call "law", because, if I accepted their definition of law, I would always fall —which they wish me to—into a vicious circle and have to obey anything in order only that their power may be preserved. It is in that sense that Lord Durham said that it has fallen to those to administer laws to people who oppose those laws. That happens, but once in a way, in this Assembly. We rarely succeed in passing laws which they have to administer, by reason of the position which they have adopted. Sir, this is the culmination of the events of some eight or ten weeks of desperate effort

on our part to do everything that we could do, everything that we wished to do, everything that we wished to assist, everything that we wished to produce, but I wish to state next as to what our position in this matter is, so that our vote may be clearly understood. We are of those who believe that, if we cannot do anything else, we will certainly prevent a preventable mischief. As to those preventable acts of mischief other than the amendment of the Act, we will leave them to their power. But I am glad to say that they will have to wait for Nemesis if they go on in the manner in which they are going on in the headlong exercise of power, without regard, without sympathy—I do not mean sympathy in the sense of pity,—but I mean sympathy in the sense of an intelligent understanding and conscientious effort to meet it. If even that is wanting, even then we shall not let them rule, at least by laws, as they pretend to do today in the name of the representatives of the people. Sir, if we serve no other purpose, we shall serve a still higher and better purpose; we will make it clear to our countrymen, every time we are repelled, and almost ingloriously repelled, most humiliatingly repelled, that every time when we are so repelled, we shall go back to them and say: "Don't be deceived by the forms which they have invented from time to time. There is no reality of the devolution of power, neither in this Constitution nor in the next one to come, and only grasp it when the reality comes." Their attitude reminds one of people who, as was said by another British statesman, bury their head like ostriches in sand and bury themselves into the smiles of those who are their supporters—who never tell them the bitter, unpalatable truth that my countrymen desire. So that they shall change their course and conduct. There are those who come and say to them—"Carry on; there is no strength in the country, you are perfectly free in the exercise of your will and power". I will make a present to you of those supporters of the Government.

taken all that I have, and, therefore, there is
the answer is: "You ought to have", secondly,
ound that we all feel that, in the matter of the
of the relief from taxation, I suppose it will be
and I hope it will be admitted as a decent test,
hould begin at the lowest, the broadest foundation.

Importance of Salt

it was admitted the other day by the Honourable
d that salt, after all, must be admitted to be
e commodity which is consumed by every man and
g animal and even every living tree in this country.
vegetable kingdom uses salt. And that is the reason
eel that this particular commodity, this particular
one which we have made it as part of our creed
have made it as part of our programme to get
e earliest moment we can. Sir, I do not pretend
l the arts of government which my friends on
side possess, but, after all, I may remind them
are few among even the Heavenborn services
ay for years together, and there are others too
bly belong very much to the lay public as I
ey yet have the prescience, at least that claim
the country and to cast their vote in their
ay they not take a word of advice from us, that,
fit to advise on measures for the purposes of
rnment of this country, we at all events have a
it to do so,—first because we have the same and,
pared to recognise, greater abilities, I am not
to any invidious distinctions. I am not trying
e part of the deceitful oracle, because I am quite
will live, and while this Government lasts

no knighthood is in store for me. If my Honourable friend had called me an oracle, he should have expected, as he called me Sir Oracle, I am bound to protest, I am bound to point out to him that that honour is not likely to be conferred on me, and, if it is it will be my respectful duty to have to refuse it with great thanks, of course appreciating the honour that is intended to be conferred so that oracles we do not claim to be, but may you always be oracles all the time? If not, utilise us for once—you might have allowed us the self-satisfaction, the paltry little satisfaction of saying—"let these amendments stand." But you do not find it in your heart or in your reason to do so, and I protest, and I maintain, and I insist that it was possible for you, you could have done it, but you did not do it for a reason to which I shall presently come.

Some months ago, a gentleman a highly influential member of the Conservative Party—and I call it a "Conservative Party" because I do not think they are entitled to the title of "National Government" Party given to it—came to me to discuss a matter which is not confidential in any sense—namely, my attitude in the matter of the policy of the Government of this country. I sincerely and honestly analysed the whole position, and I asked him whether there was any devolution of power, and it must be said to the credit of that Englishman that he had the honesty to say frankly that he thought there was none. Then I asked "why"? He said: "I will tell you why. We resist it because it shall not yet be known to the psychology of the Indian mind that we will yield to any demand of theirs, because once we begin to do that, it is the beginning of the end; that is why we resist it." Sir I know that psychology, I know that state of mind, but I also know having read history for a good long time, that that state of mind is always the last failing of any Imperial Power that has had sway in this world, that feeling is the undoing of those who think that that is their assertion of strength,, when, really,

it is an assertion of growing weakness. That self-consciousness is not yet present before them. But the fact remains that it is from that they suffer most in refusing what is quite feasible and quite possible.

Sir, about ten years ago, Pandit Madan Mohan Malaviya and others said: "You have no right to collect any tax in this country." You may do so against our will, but our willing assent is required to any form of taxation. It shall be on the principle that those who pay taxes shall, through their representatives, have at all events a predominant voice in these matters, and indeed expressions have been used employing the now hackneyed maxims which I do not propose to use now.

Respect Public Opinion

I have heard from an Englishman—a man whom they ought to respect for what is virtue in them cannot be crime in us—that in England it is public opinion that counts. If the bulk of us assert one view it must be respected, and, what is more, it must be respected on the ground that the voice of the public, the voice of the people, is the voice of God. Here the voice of the people is the voice of a beetle, I presume. That is quite true. In other words, when there is a public opinion in this country, that public opinion is the creation of the misguided agitators, whereas, in England, public opinion selects a National Government out of almost a deceptive feeling of insecurity, and it is still public opinion. Public opinion here is merely to be trampled upon; public opinion there is to be obeyed, respected and to make Governments. That is the public opinion, and that is the difference in the value of public opinion. I will not, therefore, detain the House any longer but I will say this, in conclusion, that we oppose this motion, not in any sense of irresponsibility, for we understand what we are doing, and know the consequence of what will follow, but because it will give me satisfaction

that I have respected myself in not assenting to what I think is wrong. After all, if nothing more is given to a man than his conscience, the right of assertion of what he thinks to be true, and if in the doing of that, Sir, we struggle and we die, we should not have died in-vain.

BOMBING OF CIVIL POPULATION

5th September 1935.

Sir, I would not have intervened in this debate but for the fact that from our point of view this particular matter involves a question of principle, on which, though we may not have the power and the authority to enforce our views and our decisions, God willing, some day we shall do so.

The question that is involved in this is this—the propriety of the use of bombs and instruments of that character during semi-warlike or warlike operations on civil population. It is a question on which I have no doubt—and I have studied it to a certain extent—opinions have differed at many conferences including the Disarmament Conference where, if I am not mistaken, Sir John Simon was not prepared to assent to that broad proposition. It is perfectly clear and there is no doubt in the matter that there are people who stand for that view and it is, therefore, up to us who stand for that view to assert it to the extent to which we can, whether we can actually stop it or not. The issue before the House is not whether this particular expedition should have been undertaken or not. It is an entirely wrong view of the present motion before the House. In fact, on the one hand, both my honourable friends opposite and the Chair are very keen on confining us to the one particular matter—I am repeating the words of my honourable friend opposite —but when it suits them they lay themselves out as broadly

as they like. Who ever wanted a discussion on this present occasion whether or not this particular expedition was justified and yet I venture within the limited time that I have got at my disposal to say that the policy on the Frontier, considering the very history that the Foreign Secretary has chosen to give to this House, is one of which we have always and constantly complained. On his own showing here is a tribe against which, from the year 1908 to the year 1935, there may have been some grounds for an expedition but more often it is just an excuse, I believe, for the maintenance of the army at the North-West Frontier as being a danger and menace to India without which the present expenditure of 58 crores cannot be justified. When you have got an army there is always an inclination—almost a justification for its use, and I will presently point that out when I deal with the speech, the almost adroit speech, of my honourable friend Mr. Tottenham on which I congratulate him. I almost wish he had been a lawyer and not a soldier. For, indeed, the very fact that they have got this army is said to be an excuse for the purpose of what? Each time, he said, when we are within our borders, we must take under our wing a little beyond our border. If we have taken them within our wing, we must fly a little beyond that border and keep on doing that all the time. In fact, it is this talk of warfare which throughout the last 30 odd years has been the only excuse for piling up the armaments at the expense of the poor people of this country. I would not have referred to this but for the justification that was attempted by the Honourable the Foreign Secretary by giving the history this evening.

The real issue

I now come to the real issue. The only issue that is raised on this motion is whether or not, according to the opinion of this House, bombing of civil population during an expedition is justified, and I believe Dr. Khan

Saheb himself has said that we may not have the actual control of direction of the policy of the Government, because, on their own confession, they have demonstrated themselves to be first irresponsible and, secondly, demonstrated themselves on their own confession to be the agents of a foreign autocrat. That is the position they have taken up. It is a position of which I make a present to them. But the fact remains that so far as the moral responsibility of any of their acts is concerned, this House will always rise to the occasion and assert its opinion even though it may not actually be listened to. I know they have got used to these defeats. I do *not know the meaning of that word.* I wonder if this is the way the Government in India is going to be conducted according to their opinions and contrary to the feelings and opinions of those who are *solemnly invited here as the representatives of the people* and who had to undergo the immense expense of elections *under the pretence of a respresentative Government. I hope* and trust that what has become with them a habit shall be an exception in the *future. I hope and trust that this* Government *if it is* ever going to *justify itself will justify* itself only in exceptional matters in differing from the majority of the House. If they will not do that, then what will happen is a matter the consequences of which will be entirely on their own heads. I hope they will not be able to say that they want more and more laws—the subject of a future discussion—in order to put down the awakening of national consciousness and in order that we may not be able to assert our rights against those who choose to govern this country in this irresponsible manner.

The issue therefore is a grave one. We stand here for this principle that whatever may be the peril,—we shall always stand for a civilised principle, and indeed, we are more civilized though we may be less scientific and less mechanised. I do claim that we are certainly more civilised. We shall certainly stand for civilised methods even if we

have to enter upon a war. Therefore, we stand for the principle that even during warfare, so far as the civil population is concerned, it shall be safe from the ravages of the instruments like bombs that were attempted to be used. Now, what was the reply of the Honourable Mr. Tottenham. He said that the Honourable Members on this side wanted more aeroplanes and therefore he drew the most extraordinary conclusion that those aeroplanes must be used. I think that is the principle of the Government of India. They always say "Remember, we can always disregard it though we are not bound to do so." Therefore, the argument is this: because there are aeroplanes, therefore they must be used. If that is the argument, I hope and trust that that conclusion will not commend itself to such commonsense as we possess. Therefore, the fact that we desire more air-arm for our future protection against great eventualities will not, I hope and trust, be twisted into a desire or a requirement or a request that it shall be used against women and children on the trans-Frontier tribes. In fact, he did not deny bombing of civil population. The only ground on which he justified this action was notice. Well, I am one of those who believe that this is not a matter of notice at all. If it is a matter of notice, then it becomes a very different proposition. Then you wipe out the principle altogether, Then you admit the justification of that particular use of that arm in those particular conditions and then you leave them at the mercy of those who think what is good notice, what is notice and what is adequate notice. I am familiar with such excuses. Sir, it is practically admitted that bombing was done. All that is said is that notice was given on the 17th and the bombing took place on the 19th and that is all that is said in justification of it. Indeed, if you take out the beginning and the end of all the speeches that have been made on behalf of the Government, all that is said is this: Does this House stand for this that a notice having been given on the 17th, bombing on the civil population on the 19th is justified or not?

There is no other issue before the House so far as I can see. That was the only justification that was sought to be given. I further say that the economy of it is no excuse. I am not one of those who believe that economy justifies means fair or foul, in fact, where is the question of economy when we are concerned. There is no economy when this country's administration or expense is concerned. There is no question of economy, but some excuse must always be trotted out and economy is now trotted out as an excuse for an act which otherwise would be held to be wrong. If the act is wrong, it is wrong and no question of economy will justify it. I, therefore, say that we are amongst those who stand for this principle that the civil population shall not be treated in the manner in which it has been done.

Mr. G. R. F. Tottenham : I began my speech by saying that if it were a fact that the civil population were being bombed, I should unhesitatingly have condemned it. But my whole speech was intended to show that the civil population were not being bombed, and, as far as I know, there is no evidence before the House that they were.

Mr. Bhulabhai J. Desai : Well, there is no evidence before the House that the civil population was not bombed and if the civil population was not bombed, what was the point of bringing in the question of notice? It is impossible to believe that the civil population was not bombed. Why was notice necessary ? Why was notice pleaded ? To whom was the notice given ? Why was the notice given at all ? Why was it pleaded that two days notice was regarded as adequate ? I wish to say two things. I say that notwithstanding the fact that we may stand, and we are prepared to stand, any type of treatment at the neglect, at the contempt and at the rejection of every vote which we shall have

the right to call for, we shall stand and register our opinions and not only register our opinions, but make the Government of India believe that the discretionary power of flouting our opinions should not become the habit of the rulers of this land. It is against the scandalous way in which the opinions of this House have been treated during the last three months that we are here to protest; and whether or not this expedition goes on, whether or not many more or many less women and children die by the striking of bombs, God willing, we shall not stand here in justification of their acts. We do not care whether it is economic or uneconomic to carry on a warfare in other ways. In my humble view, it is not justified; in my humble view, it is merely baiting and keeping up the show that you are fighting in the Frontier if only to justify the maintenance of such a huge armament as a burden on this country. That is my humble view. The only issue I stand upon now is this, that neither economy nor notice shall be a justification for the barbarous behaviour displayed by the Government on the Frontier, and, by the vote we are going to register, we shall show to the Government that this shall not be done.

CRIMINAL LAW AMENDMENT BILL

12th September 1935.

Sir, I wish to amend the last statement that the Honourable the Leader of the House quoted from what I am stated to have said in connection with the Silver Jubilee celebrations. I have always held, and I still hold, that I will not support this Government or any Government for the matter of that, contrary to the interests of my own country and contrary to my own convictions. If that is any satisfaction to those who, for the last one hour and a half, have been treating this House to an *argumentum ad hominem*, never going anywhere even approxi-

mately near to the subject under discussion, they can have it. They ought to have realised that it was not their business to get up and merely carry on and take man by man and contradiction by contradiction of single individual acts or sentences and feel that they have proved their case. If they think so, I leave that flattering unction to be laid to their soul by themselves. I expect a somewhat higher level, indeed a much higher level, of debate, argument, persuasion and conviction than the one with which we have been entertained. I say that, and the more so, because of the respect that I personally have for the Leader of the House as he well knows. But, nonetheless, he had to deflect the argument; he had to get out of the argument; he had to get out at a tangent; he had to entertain some of his friends who felt a little low during the course of this discussion; and I am very glad that they have been very much entertained indeed.

What is Law ?

Sir, I stand before this House confessedly a man who at one time broke what was called "law" in the sense in which it is used by Government in the definition of Austin, the great jurist. But, from that, even for a lawyer of the eminence of the Law Member to get up and say that the line that divides us two is the law-breaker and the law-maker is indeed a logic which my mind fails to fathom altogether. Undoubtedly there are many on the other side, I hope and trust, who, as and when their conscience requires, their national interest demands, would not be wanting in courage as not to break the law. I make a present to them of the argument which was advanced that I was one of those people,—and I particularly accept the title,—who dared break what was called law which I shall presently describe. During the time that I have alloted to myself, I will say that I will not indulge in that type of argument of a personal nature,

though I could very well do so. I have got a long line of speakers on the other side, and I know how to deal with every single one of them, either personally or in their statements. But it is not a dignified thing to do: and, lawbreaker that I am, I wish to set a better example, if I may. We oppose this Bill forgetting all the past: we oppose this Bill on the grounds, which I shall presently state, of the well being of the State, which my friends are at present trying to govern and carry on, and we also oppose the Bill for the very nature of the provisions which are contained in the proposed enactment. When it comes to law, let me remind my Honourable friends on the other side that it is easy to cheer a very cheap observation, but I may remind them that law, in the sense in which Austin gave it, means the expression of the will of the sovereign power to do or to omit to do a particular act ordained to any of the citizens with a sanction behind it: in that sense, what was then promulgated was law. But, before a State could expect obedience to law, it has also got to see that what they give as law is not what supports their supreme absolute tyrannical authority, but a law which accords with the well being of society and which it becomes the duty of every citizen to support in the interests of the common good: The law which they promulgated did not accord either with justice or the well-being or progress of my country; and that was the law I have broken, and I am not in the least ashamed of having done so. Indeed I am one of those who are fully familiar with how the provisions which are sought to be retained now have been worked; and it will be my duty, without wearying the House and within the limits of my time, to tell them exactly what they have done of which they cannot be very proud. To the extent to which they will make laws and propose laws of the type they are doing today, they must be prepared for Civil Disobedience. I am not one of those who are afraid to meet the argument when you are told "Oh, but

we are told that Civil Disobedience will come some day, and, therefore, we must arm ourselves". Let them arm themselves all the time; but if they arm themselves all the time more and more by the type of what is called law, restricting the liberty of the subject as we apprehend it, I am not at all afraid to tell you that if that is the ground on which you want this law, at all events, so far as we are concerned, you will not have it, not in your interest, not in our interest, but in those very interests which you profess to protect. You profess that you wish to govern the State, as Mr. Griffiths said, founded on the will of the people; and indeed you may defy the will of the people; but you cannot shut your eyes to the existence of the will of the people; and if you think that you have entrenched yourself by means of measures of this character, so that, in your own unstinted absolute authority, you will find it easier to govern, you may carry on with the course that you have set to yourselves.

Congress stands for Nonviolence and Truth

I fully remember the somewhat animated address of my friend, Mr. James, yesterday. He told us—and I want him to believe that I appreciate it—that we shall get the liberty of the press that we deserve, and we shall get the kind of government that we deserve. It is for that, it is in defence of those very desserts that I stand before you this evening. I wish to assure him that we shall deserve the freedom of the press by the rejection of this Bill if there is any nationalism in us, if there is any self-respect, if there is any intelligence in any part of the House. For we shall undoubtedly deserve this measure of freedom from the restrictions of the proposed Bill, if only our will will prevail; because, at one time, we broke the law, we have not become unfit to think, we have not become unfit to judge: perhaps we are all the more rendered stronger and better fit to judge what the elements of the law ought to

be and not merely every freakish will and expression of the Sovereign Power, because it happens to have a sanction behind it. We shall not bow our heads, however strong that sanction may be; and after the insult which was hurled at us that it was a camouflage—this non-violence—I wish they would not quote Mahatma Gandhi again; in one breath they call him an apostle of non-violence,—and when it suits them, they turn round and laugh or think they raise a laugh—but they do not realise that they raise a laugh at their own expense, at their own timidity, at their own pusillanimity, at their own want of patriotism. Sir, we on this side stand for non-violence and truth, and will ever do so, God willing; and no amount of ridicule, no amount of contempt, no amount of insinuation will ever swerve us from that straight path, and we hope we shall tread it to the honour of our country and perhaps to the glory of the civilized world. It is no use indulging in this pettyfogging manner of indirect thrusts which for a time calls a few cheers and thumpings. That is not the way to judge us. If you expect us to think that you are honourable men, that we should treat you as such, then you must realise that there are certainly as honourable, if not much more honourable, men on this side of the House; and why do you make this a personal question? Sir Muhammad Zafrullah or Sir Nripendra Nath should not treat this as mere personal issue as if it was a question between us and them, or between Mahatma Gandhi and the Government of the country. It is a sorry plight, the way in which the issues have been presented on this Bill during the course of this discussion. It has got nothing to do with the errors of Mr. Satyamurti or the mistakes of Mr. Asaf Ali or even the lapse of memory, as it is called, of any individual. That is not the way to judge of measures of this kind.

But I realised one thing during the course of this debate, and it makes me sorry for it; and that is that

those on the other side do not believe that freedom or liberty has got any good influence: They do not also believe that, so far as inculcation of knowledge by the press is concerned, it is any good. It is doing good only if their will is to prevail, if their qualifications are to be given effect to and their restrictions are there. I am one of those on the other hand who is a realist. Some of you may call yourselves realists : for your realism is nothing more than that we should acquiesce in what you want us to do. That is a realism which I have not yet learnt. I am a realist in the sense that I fully appreciate the indirect and the direct consequences of every measure that you bring before this House, the effect it will have in the long run on the minds and the education of the people at large; and that your professions if they accord with your convictions, you ought not to have brought this Bill. We, therefore, believe that you have begun at the wrong end: you are administrators, pure and simple, and it is an unfortunate part that the administrator and the legislator should ever get together in one person. For indeed the executive cannot approach these issues from the larger and broader point of view, except what serves them and assists them, and except what they think will make their work and their task comfortable and easy. It is a matter of no consequence whatever to them what deleterious and deteriorating influence it will have either on the growth of the public mind or men. To them all that matters is a comfortable easy Government. Well, that being their state of mind, of course they say: "Did I not tell you that, during the course of these years, so many articles were written, and have I not shown that there are so many poisonous articles?" And, therefore, what? Therefore, according to them, the logical result is that they want a measure of this kind to prevent any articles being written. In fact, if I am not doing an injustice to Sir Muhammad Zafrullah, he said: "If you do not like this, then the logical conclusion is to repeal the whole of the

Penal Code." In other words, if you will not have a restriction on the press, you might as well have no restriction on anything at all, not even theft and murder. If that is the state of mind of the administrator, in which he has placed himself, I agree that there is little in common, that there can be little in common between those who ask this law and those who refuse it: for the way they look at and read history is: "What does it matter? Some newspapers do this sort of thing, and this is the logical consequence: what does it matter if they are three or five or ten?" But do they realise and do they understand how many—and it is a thing which cannot be proved—may have grown but for the baneful influence of your repression?

I am almost reminded on this occasion, after hearing the speeches that I have done, of the saying that the times are out of joint and men have lost their reason and I have not the slightest doubt that, if they had not been mere administrators, if they had not been in the position in which they are, I may have appealed to them with better effect, but whether I do that or not, I owe it to them, to say that because the Government require a measure, therefore a gift must be made to them. To such men, with all the high education they have, with the positions they have filled, with the honourable life they have led, it could not be that their honour, rooted in dishonour, stands, because they would vote for the Bill, because they must.

Government's wrong approach

The position, Sir, is this. I am one of those who believe that the matter is not to be tested in the way in which the administrator tests this matter. "I find it difficult to carry on the administration comfortably in my province, there was a little trouble, if you give me a little more power, I hope there will be none". That is

not the approach by any decent Government of any kind according to our conception, and I have been assured, and I take that assurance without any cynicism or without feeling that, within a reasonable period of time, we have no chance of so working the Government as to be ever responsible. I take it as a compliment that if the conditions of Government are those which are laid down by Honourable Members on the other side, if the objects of the Government are those which are laid down by members on the other side, I quite agree, it is not a Government we would care to touch at all. We will certainly carry on and remain under subjection until, whether by means of Satyagraha or any other form of struggle founded on truth and non-violence, we see to it that the Government is what it ought to be, until it becomes in our view fit, to take charge of it and willing to take charge of it to the extent to which we can. After all, who are those who speak of power? They are of us. They might easily have been on this side of the House, and it is a matter of complete despondency to me that we talk as if we have no points in common, as if the one side must look at us with suspicion and the only thing we deserve is suppression, repression, if not extinction. If that is your motive, I am going to make a present of all these motives to you to carry on that Government. We have been under it for 150 years, and we shall remain under it longer, but we shall not touch or assist that type of Government, an expression which again I repeat, —so long as it does not serve the interests of my country, and, in so far as it is against the interests of my country. It is, Sir, with these feelings that I rise to oppose this motion. Of course, it is easy to say, "Oh, what have you got to do? You are not administrators, you can refuse this to us, but you want a vote next time". I do not want to mention the name of the learned gentleman who said it, but I know who said it,—"What is wrong in a vote?"—this is what he said. By your very sentences you entirely give

away your case. If my countrymen are going to give me a vote, because I vote against this Bill, what is the conclusion it leads to? The conclusion is that my countrymen think that I was right in opposing this measure. Therefore, what is there so insidious, what is there so base, what is there so wrong, when it was said: "Yes, you will have to face your constituency". In fact, when that was said, we give an acid test of what the country thinks, feels and requires. If the country is behind us, and if you think that the country will return us, because we oppose this measure, you entirely destroy your own case. In these little personal supposed repartees, the implications for the moment are not perceived. But I welcome the suggestion that if we wish to face our constituency, if we wish to get a vote, we must oppose this measure. Why not? It is an actual test of what the country requires and demands, not in the comfortable situation of my friends, Mr. James, who can say, you cannot have this, you cannot have that. He is neither the Government, nor one of us and yet how could he say that you cannot have this and you cannot have that. That exactly accords with what I have read in Mr. Ramsay Macdonald's Book. The position of the European in India and the position of the Anglo-Indian press in India is, to the extent to which it subserves their interests, to support the Government, and for the rest of the time to preach to us and I hope and trust that, whenever there is a better purpose in the Government, I would regard them, as I wish they would regard themselves, as members of the same Indian community. And if they do regard themselves as such, I hope and trust, they will not talk in the manner in which they do talk in a very comprehensive term: "Oh, these Congressmen". That is about all that we get by way of admiration, respect, or understanding from our friends on the other side. Well. Sir, all I can say is this, that before we can proceed to a real discussion of the actual measure which is before the House, we must fully understand the premises from which we start. I am one of those who

would ask the House to start from two premises. When a quotation was read out from Sheridan's book, I suppose they all thought,—now it has become a common place,—liberty of press, liberty of man,—"Oh,—they are common place, they are no use to us, they are very elementary things, they are all right in schools, to us grown up men, administrators, liberty of the subject is only a secondary matter —restricted so as to make our positions comfortable". If that is the approach, then, I say, it is entirely wrong. You must start from the premises, as civilized men, if you have any intelligence, you must start with the premises that the liberty of man and the liberty of the press are the first fundamentals with which you ought to start before we begin to legislate and if you want to legislate in the sense in which you mean, there is nothing common between us. I am not at all afraid of telling you that if you make your laws worse and worse still, we may some day resort to Satyagraha, and if you stand for that creed, principally of force, of non-recognition of liberty of press, let this House have a present from those who believe in those uncivilized doctrines. I have nothing in common with them, and I do not venture to ask for their vote, and I do not want their vote, and I won't ask for it. Therefore, it is, Sir, that we must start in matters of this kind with great fundamentals. Now, only one sentence was quoted from Sheridan and it was said: "Oh, Sheridan called the press a great engine, but great engines are very powerful engines, and very powerful engines are very undesirable engines, and very undesirable engines are very dangerous". If I may return that compliment, I may say that engine there (the Government of India today) which moves with all the oil, with all the fuel, with the blood that my countrymen provide, should not be an engine of tyranny. At all events, the engine of the press cannot be so tyrannical, but the engine of an autocratic Government can be worse, and we see the plight of this country today. Therefore, we are one of those who stand for two broad principles from different

standpoints, and to the extent to which the liberty of the subject and the liberty of the press is to be restricted for subserving the higher interests and the more common interests of society. But your object is "Oh, you will start the struggle again, you will perhaps expect us to change our form of Government". That is the argument that is presented from the opposite Benches. "You, Congressmen, are going to have a Satyagraha struggle, and then we must beware". And why? "Not because of any bad reason or good reason, but because we do not want to improve, we want to remain, where we are". My Honourable friends may call it birthright or not, I do not wish to use that expression; but I hope and trust that there is something in human mind, some noble quality or character that makes man, and if that quality is some day raised in us, we hope and trust that we shall struggle,—we shall struggle all the time notwithstanding this Press Act or fifty other Press Acts. Therefore, if you are going to forge instruments, in order that you may destroy the moral power of the Congress, I think you are coming to the wrong house to ask for the passing of this Bill. Whether we get power or not, we certainly shall have the satisfaction of approaching every piece of legislation of this kind from the right angle and the right point of view. All right minded men, be they administrators, or not, will recognise the two principles.

Government Responsible for Satyagraha

I now come to one or two other matters on which this Bill is sought to be justified. I say that this is sought to be justified on the ground that there is a possibility, even a probability, of a Satyagraha struggle in future. We are here to caution you that you, by your own act, are forging the instruments, the very danger which you wish to avert. If you go on making laws suppressing men,—men, if they are men, will struggle, and no amount of administrative authority will prevent the possibility and the

growth of that struggle. Then, it is said that there is terrorism, that there is Communism, that there is communalism. I am not one of those who flinch from the fact: "On your own confession you have only suspended the Civil Disobedience Movement, you have not abandoned it, and, therefore, we should have an Act." I make a present of that argument. I do not wish to make the smallest secret of the fact that if you restrain, and unduly restrain the liberty of men, if you do not improve the constitution of the Government as it exists, you must be prepared for a Satyagraha struggle. It is those who are afraid of that confession —my Honourable friend almost gloried in the idea that they had extracted an admission, what they thought an unwary admission from my Honourable friend, Mr. Satyamurti. There is nothing unwary about it, no, nothing that we are ashamed of, nothing that we do not believe, nothing that we desire to conceal. But, nonetheless, we are here to tell you, don't do things in order only to accentuate the situation, so that this struggle may be rendered necessary. Therefore please don't bring forward the argument; "Because there may be a possibility"—yes you do not like Satyagraha, of course you don't. How would you like it? You do not want to change, you want to retain all the power, you want to retain all the exploitation, and I do not expect you will like it. I am not one of those who is under a delusion that you are ever going to like it, but, at the same time, I want you to know that we shall resort to it in the teeth of any laws that you frame which make it necessary for us to do so. The blame, the responsibility is entirely yours, and not ours, and therefore, this Bill is asked for on the ground that if it is made law, it shall put an end to what? Not to the exercise of the right of Satyagraha, but to the abolition from human mind of the principle of Satyagraha. Even Sir Harry Haig had a better sense of humour and a better sense of justice than his successor. He said: "We cannot expect,—we can only expect by the word 'suspension,' that

you won't exercise the right that you possess, but we do not expect that you will forswear your creed". But his successor goes further. Once people are clothed with authority of any kind, absolute and unquestioned, they have always a habit of mind in which they say, you shall surrender and surrender in the most abject manner. If we are not given the Government that we desire, and, I hope, in the language of Mr. James, that we deserve, as early as we can,—Satyagraha is the only means left to man other than force. It is not merely a question of foreign Government and foreign citizen. Wherever there is an undue concentration of power, whether in their own country of England or elsewhere, the struggle by the man to shake off the tyranny of the superior is the rule of life and shall remain the rule of life, and that we shall not forswear our faith in Satyagraha. Therefore, we come back to the two grounds which were stated—terrorism and Communism.

Government has no Case

As regards terrorism, the first point that I wish to make is this. My Honourabie friend, Sir Muhammad Zafrullah Khan, read out a few extracts from the speech of Sir Harry Haig at the end of the debate last time in which he did refer to terrorism and Communism. I have again made myself sure, and I do not wish to go over the ground once again—I have made myself thoroughly sure, the words that he has used are: "The object of the Bill, the purpose of the Bill can be described in two or three words, Civil Disobedience Movement." Not only that, but I think those on the other side, clever administrators as they are, cleverer lawyers as they are,—I am sure they will understand the implication. If these were the evils which pre-existed before the Civil Disobedience, which were intended to be dealt with by the Act, there could be no meaning or purpose or sense in limiting it to three years. With such logic as I possess, and I commend this view to the rest of the

House, it is impossibie to believe that those permanent evils as they are called, if they were to be met by means of this legislation, there could have been any question of limiting to a period of years. Therefore, it is beyond all doubt and beyond all question that it was intended for the purpose of meeting only the Civil Disobedience Movement. It only illustrates the fact that, once power is enjoyed, it is difficult to give up. I remember reading all these questions and answers in my solitude at Nasik. Sir Harry Haig went on enlarging the formula from time to time. First he said, the moment the Civil Disobedience is suspended, the extraordinary laws will all cease to operate. After a little time, he became a little more alert and vigilant. He said, but not for a period of six months, it may be— in the language of my Honóurable friend, it has become a little fashionable,—a camouflage, and, therefore, we must wait for a period of six months after suspension to see that it is genuine. If it is genuine in the sense that for all time you will have absolute Government and we shall be subject citizens, then you are satisfied. But if you mean that this suspension is *bona fide* in the sense in which such struggles and cessation of them are *bona fide*, you must take it from us that it is a *bona fide* suspension, and, therefore, that period of six months and more has gone. And yet, when the vision of the next December comes, these laws would not be there the *Yugantars* will rise.

The picture that my Honourable friend painted is all right as an advocate. It is all right for an advocate, but if, out of 1,600 newspapers circulating in the country with millions of copies, if you take the 365 days of the year, and these things are printed and circulated by the millions, if you can only pick up this yellow pamphlet and the one-and-a-half hours' speech of my Honourable friend, that has proved our case. I venture to say that it is impossible that out of 1,600 papers, multiplied by 365, omitting Sundays we should have 313 days,—that you should be able to pick

up a dozen or 100 articles during a period of one year, the very exception proves the rule by the very confession of those who seemed to think that they have made out a case from labours and pains to which they had to go in order to print a pamphlet with translations and a few more cases, as my Honourable friend, Mr. Govind Ballabh Pant said, if it were brought up to date. But, with all your resources, all your powers, all your Secretaries all your C. I. D.'s, if you can only produce instances of the abuse of the power to the extent and in the manner it exists today, then I say, you stand self-condemned. That is to say, you have not made out a case for the purpose of renewing the powers that you want. I will not repeat the arguments that were addressed to the House as to the manner and the effect of this legislation or the other argument that the number of convictions bear such an infinitesimal proportion to the number of publications. I put it to you as ordinary normal men, if, out of thousands and thousands of daily publications, you can pick up only a hundred or two, leading to violence or incitement to violence, you can please yourself and say "how nice, how good, how spicy." But the fact remains that the number of articles which the Government have been able to produce as the best specimens of those which have been the subject of their research from the year 1922 to the year 1935, and the number of prosecutions that they have produced prove the contrary. You may turn round and tell me "You must remember that there were periods when the press law was not in existence." I am going to read to you with your forbearance a short statement from a journalist whose probity whose integrity and whose moderation, a favourite word with you, is beyond all question. This is what he said at the last Journalists' Conference which was an altogether representative gathering, if you look at the number of editors and pressmen who were present. Mr. Ramananda Chatterjee said this ;

"Friends, I wish to remind you that, though capital punishment has either been removed from the Statute-book or fallen into abeyance in very many civilized countries it not only exists in India, but may be has been inflicted on newspapers without any trial, without a trial by even a court martial. Securities are demanded again and again, and finally there may come the extinction of the paper concerned and even the confiscation of its press. It is often a long-drawn affair, which ordinary executions are not. I have no doubt this subject of capital punishment by instalments, inflicted on newspapers, will receive your attention."

Govern Properly

You are very fond of indulging in the phrase "A Government must govern". I dare say, it must; but I hope there are those on the other side who also realise that there is another side to this case. If they say that the Government must govern, I hope the citizens will turn round and say: "Yes, only so long as you properly govern". They seem to think all the time "We know what is good for you. You don't know what is good for you". They seem to think that these few articles are responsible for creating the terrorist activity. I should like to believe that that type of mind is honest. Imagine asking us, on the basis of these few articles, to believe that the newspapers are responsible for bringing about this terrorist activity. We are not such credulous fools. There may be others who are prepared to believe it, but none on this side at all events. You want us to believe that because a few articles are written, therefore springs up a terrorist at the other end of the psychological factory. I ask you not to be under any such delusion. I understand, the Honourable Member, who comes from the Midnapore district, is a man of great erudition, great education. I ask him to read the history of the world. There has never been a revolution in this world which has not had, as its immediate and proximate cause, the tyrannical abuse of powers by those who govern. Of that you may be quite certain. Therefore, it is not the newspaper which

creates the terrorist. It is the state of the country's subjection that creates it. I am here to say what is the root cause which is responsible for bringing the terrorist into existence. The French Revolution was not created by Voltaire or Rousseau. It was created by the grinding condition of the peasantry at that time. You may, therefore, take it from me that we are not such children as to be taught by you that terrorists are produced by the *Yugantar* or some other paper raising its head. We are not going to accept that proposition. I admit, it is undoubtedly an evil. We are of those who do not stand for these methods. We condemn these ways, but how can we, as human beings, deny that those misguided fellows laid down their lives for something in which they did believe? You may deny it if you like. You may call him a criminal, but you cannot deny, that however wrong and misguided the man and however atrocious the crime, that there was at the back of it all a noble motive which impelled him to lay down his life. You cannot ask me to dismiss it altogether. I am going to condemn him. I am going to tell you that you have rightly killed him, but I am going to tell you at the same time that you created the soil which made it possible for that sentiment to grow and but for which he would have been a better and an innocent man. After all, I shall ask you: "why does he do it?" Is it out of mere frolic? No, because he believes, wrongly I admit, that, by doing the act that he does, he is going to achieve the freedom of his country. You can easily exaggerate these things. Have some sense of proportion in the words of my friend, Sir Muhammad Zafrullah. Have some sense of justice. Have some sense of propriety. Don't expect me to render my allegiance to you under all circumstances. That you will not have. That you will never have and that you do not deserve in the words of my friend, Mr. James. Therefore, you must not look at these matters from the way in which they are looked. The revolutionary commits crimes, and, yet, when it is a successful

revolution, it becomes the Government established by law in the eye of constitutional law. So let us not go into hysterics over these things. I cannot deny that it is an evil which must be met in the best way you can. You may not accept our view, but we believe the proper method is to eradicate the cause. You believe that the proper method is to suppress it for the time being. Well, whether you succeed in suppressing it or not, it is your own business. I know you will tell me: "you are not there to govern, you don't know the business". Sir, thank God, during the public life I look forward to, I won't have to handle the heritage of this type of Government.

I now come very briefly to section 5, and seeing that I only have a quarter of an hour, I shall go over each section very briefly, without dilating upon it.

We too have Accepted Principles

Sir, I am one of those who believe that, if I am likely to convince you—I should present you my case, and I want you to take it not merely as a case placed in the way in which it has been sometimes placed; I want you to believe that we start with some accepted principles of human life, conduct and construction of society; and if I start with these principles, if you believe them in your own land, do not think that we are so low, we are so depraved, we are so degenerate that there are different principles to be applied in our country. Thank God, we at all events, during the last few years, have come to think and believe that we shall be men enough to observe the application of the same principles which are applied in most civilised societies anywhere else: and, if you think we deserve a lower treatment, at all events I appeal to my friends on the other side who think with me: "Don't, for your own honour, associate with them."

Sir, I come now to section 5. There is only one observation I have got to make on that section 5. There was a certain amount of confusion....whether it was a misunderstanding or not, I cannot say; but I think my Honourable friend, Sir Zafrullah Khan, will not deny that section 5 makes punishable that which, by an act of the executive, has been regarded as unpublishable, so that you begin with that assumption. Then, what it makes punishable is its circulation or repetition: and it makes it punishable if the Local Government has certified that the passage published contains, in the opinion of the Local Government, seditious or other matter referred to in section 4A, and so on. I, therefore, say, Sir, that is *par excellence* executive upon executive! There is first the executive order of proscription, there is the second executive order of certification that it is sedition,—and, on that, well, what has the devil of a magistrate got to do? All he has got to do is this. He asks: "Is this article proscribed?,' The police-man says: "Yes." Then he asks: "Is this the writing certified?,' The police-man says: "Yes." Then he says: "Sentenced to six months." You seek to clothe certain things with forms of law, because you yourself are afraid that naked autocracy will expose you to a certain amount of disgrace. What happened during the last Civil Disobedience Movement? Take my own case. I was arrested one fine morning and taken to Nasik on the allegation that I was disturbing the peace of the land. I was detained there for two months. I am going to show you, Sir, what this "law and order" is of which you are so proud, Sir, if this is "law" you must be prepared for its disobedience. Then, a very suave Secretary to Government comes round and says: "I have got an order for you, because you are going out tomorrow. You will remain within the precincts of Nasik in which you have got no house, no

food, no water. If you get out of that place, you have committed an offence". Imagine the word "offence". Having done that, the magistrate comes on to me after two or three days. I happened to remain in the city, because I wanted to meet my children; and, at the end of three days, the magistrate comes round and says, "It is very inconvenient, Mr. Desai, you can neither practise your profession nor do anything else. What is the good of that? Why don't you do this? If you drive past my Bungalow (*that is, a furlong outside*), you thereby commit an offence. Then, your car will be boarded by my Deputy Inspector of Police. Then, you will come to my house; you do not want to embarrass us by a trial Court which is sure to attract large crowds. Then, I will punish you. And, then I will send you to jail". Sir, this is what you call "law", "justice", trial"! Instead of that, it would have been much more honest, much more straightforward, during the course of that movement, to say. "I suspect A. B. I sentence him to five years without any trial on the mere order of the executive Government that he be imprisoned for a period of five years". But they realise, shrewd as they are, that they must make it appear to the people that a magistrate has tried me for an offence: and, therefore, it is with a view to creating a false, deceptive effect upon the mind that you resort to these mere forms. I would, rather, that the executive had the power to confine in jail a man who they did not like. Therefore, you are at pains to invent "forms",—and we, Sir, are here to make them "naked" and make them out to be atrocious which they are. What you want to do is to put in a section under which a man will be taken to a magistrate, then a certificate will be presented and everything else leading to a conviction. That is what happened to me. "Imprisonment for two years, and Rs. 10,000 fine"—for what? "You went out of Nasik" Is that an offence? Sir, I never knew travelling in India was an offence,—but that is your law, those are the "laws" you expect us to obey, and, if we do not obey

it, you say it is a breach of law and order! You create the "law breakers" by the very hypocricy of your ways.

Picketing is not Unlawful

Then, take section 8: picketing. My friend, the Law Member, said he had looked up some law. Well, I also have looked up some law, the question is not if either of us have looked up the law, but what is the section? My friend Mr. Satyamurti, pointed out that if a man uses any force during the course of the prosecution of his aim to picket, he is punishable and I hope it is correct. I hope it is also correct that there is such a section as section 504 which makes insult also an offence. Therefore, if you use force, if you use insult as part of your propaganda of picketing, you are within the mischief of the law, and, therefore, you will be punished. But what you want is something more. Even though a person may not use force, even though he may not insult, you want to prevent him from peacefully telling a man what he owes to his country, and that you call "interference with the freedom of contract". Sir, is there no such thing as public opinion? Freedom of contract, to do what? To starve my children and feed the foreigner? Sir, that is a freedom of contract which my country does not want. That is the mischief which I am up against. It is no use telling me what a few boys did at a cinema; because a particular instrument may be debased, therefore, its use cannot be made punishable. The fact remains, what you don't want is, what you don't like is that my countrymen should have freedom, and I have had some experience of picketing—I claim it with some measure of pride—in the year 1932, from the 4th January to the 25th July. I have been a witness to a young woman standing with her hands folded as a mere indication that people going to buy foreign articles do wrong to their country. You cannot take the bread

out of your children and feed outsiders. If it is wrong, I think we must be allowed to do the wrong. If you make that punishable, we cannot help seeing the sinister motive behind it, and the assistance that you give for any legislation of this kind is an assistance which is fraught with danger to my country. We wish to preserve the land. Who daresay that picketing is unlawful in England? I know myself of a case, and, I am sure, many of you must have read about it. There was a foreign woman who had the misfortune to own a milliner's shop in Bond Street and ladies in the highest society in England caused it to be shut down in a period of four days. I wonder which Government would have regarded this act as punishable. Therefore, it is no use saying that if you promote Swadeshi, it is punishable. If you do that without resort to picketing it is like tying a man's legs and then asking him to run. You have to say that we can encourage Swadeshi, because you have to pay lip-respect to accepted nationalist principles, and you have to pay respect to things which even out of decency you cannot deny. Therefore, you must say: Practise Swadeshi. How can you say that you want to prevent Swadeshi ? You won't be able to see your own face. Therefore, you have got to say: Promote Swadeshi, but do not peacefully persuade your countrymen that it is in the interests of your own countrymen that they should buy your goods. It is a piece of nationalism; it is a piece of national right , and it is a piece of national duty which, whether it is an offence or not, we shall continue to do. Sir, I am only trying to point out to you that every section of this Act is aimed at the destruction of national spirit, national life national movement and national regeneration. It can very easily be said that there is terrorism, there is Communism or some other "ism" and, therefore, this law is needed. I hope my Honourable friend, Mr. Yamin Khan, won't say that there is communalism in it.

Judges Helpless :

Now, I come to the press section. So far as the press is concerned, nobody has ever attempted to read it, and, it is taken for granted that it is such a nice piece of legislation that it will bring about the great millennium which the learned Leader of the House talks about. He has not even cared to look at the section. That section is this:

> "In sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, after the clause......[*I shall only read* (1) *because that has been the subject, at all events, of a well-known prosecution.*] (1) which tend directly or indirectly to bring into hatred or contempt His Majesty or the Government established by law, or to encourage, or incite any person to interfere with the administration of law."

Now, Sir, I wish to present to the House the views that have been held by the three High Courts in India, not so much because they are the views which cannot be otherwise expressed, but because of the great respect that you have, and when you have seen the exposition of what this section means and involves, I trust you will appreciate it. The first judgment to which I wish to call your attention has already been referred to, namely, the judgment of Sir Lawrence Jenkins. My Honourable friend, Sir Muhammad Zafrullah Khan, interrupted the reader and said; "Oh, you have read only the first portion : what was the rest ?" I will tell you what the rest of it was. Take that very case, and do you know what he said ? He said :

> "I have read the article. It is an honourable article ; it is a proper article. But the whole process of the law (*in the language of your judgment in Madras, Sir*) is reversed."

You are called upon to show cause why you are not within the section. That is the first objection. The second objection is that the Judges have in all the three cases held :

"In our opinion, all these are perfectly innocent writings."

The first of these articles was by my late lamented friend, Mr. Mohamed Ali, the second was by Dr. Annie Besant, and the third was by Pothan Joseph, the editor of the *Bombay Chronicle*. In all these cases, be it said to the credit of the judiciary, they all said:

"We are helpless; we are the minions of the law; and we cannot help them."

This is the law you now ask us to pass. Therefore, be careful that you do not lay down any such rules. Sir Lawrence Jenkins, in agreement with Sir Abdur Rahim, held in this case:

"There is no article on earth, however innocent, which does not come within the clutches of this Law."

That was the reason why my friend, Pandit Govind Ballabh Pant, dared ask that question to the Leader of the House, but he evaded it, because there was no other way of getting out of it. Dr. Annie Besant wrote about Home Rule, and His Lordship was obliged to say:

"Who can say that it may not tend indirectly to do something of that kind."

Potent Instrument of Mischief

Now, with regard to contempt. You must earn respect, you must deserve respect, you cannot enforce respect. Therefore, I say that the matter of contempt is a matter of mutual accommodation of conduct on your part with a reaction on our part. If, therefore, you are going to make contempt punishable, because, forsooth, by any act of his, your officer may make himself worthy of that contempt, then you should not make that punishable in the manner you have done. No justice-loving man, no man who loves the liberty of the press will ever stand or vote for this

measure. It was assumed throughout the course of the argument, but nobody ever approached the question from the point of view of the all embracing nature of the section. Sir Lawrence Jenkins pointed out that even a standard work of literature can easily come under this Act. I am quoting his actual words. Supposing I say liberty is good and we must struggle for it, I am quite certain that you will say that it tends indirectly to bring the present Government into contempt, and we are trying to get something out of you. Sir, there are so many ways of getting at us by means of this law, and it is so comprehensive, that I must, at all events, give a few words which I cannot help reading out to you. I have always seen that when laws are passed purely on broad grounds without consideration of the language which it is intended to hit, it proves a most powerful and potent instrument of mischief in the hands of the administrator. I will give you a modest instance that has occurred. In the year 1908, by creating a scare which perhaps might or might not have been justifiable, the Criminal Law Amendment Act was passed. Every Member on the other side who got up—I have read their speeches—said that there was so much murder in the land and also looting and other forms of offence that it was necessary to put it down. Therefore, they must have the Act. And the section ran like this: "Whereas, etc., etc., an association which is likely to be carried on by violence may be declared unlawful, and also any other association which, in the opinion of the Government, is likely to cause breach of the peace." I am one of those who, in the first Civil Disobedience Movement argued numerous cases before the High Court of Bombay, and I put it to their Lordships of the High Court: "Do you really mean that an association which is, we shall say, a praying association—all that the Government have to do is to say that a Congressman is in charge of it and so declare it an illegal association, and, as soon as it is declared illegal, that association comes

under the operations of section 17—should be called an unlawful assembly". I did my best to make the judge read the words 'assisting illegal operations of an illegal association', but the Judge said: "No, if you assist the operation of any association, whatever it may be, you must be declared unlawful"! That is how the Statutes have always been abused. Therefore, I never rely on any statement or any assurance given at the time. Instances have occurred in the past where assurances have been given. In fact, two instances have been given. If a man on this side of the House gets up and says something, on the other side gets up my Honourable friend, Mr. Griffiths, and says: "How mild these provisions are. I have never seen more mild provisions". May I ask him, when some one of us is prosecuted and when somebody else is the Judge, Mr. Griffiths will not come and help us, and yet he says this is the law by which an unconscious and unvigilant and stupid people are scared away and they want to oppose such a simple and mild law. Now, I will read a passage from that judgment of Sir Lawrence Jenkins. Sir, this is what the Judge says:

"The Advocate General has admitted, and, I think, very properly, that the pamphlet is not seditious and does not offend against any provision of the Criminal Law of India. But he has contended and rightly in my opinion that the provisions of the Press Act extend far beyond the Criminal law; and he has argued that the burden of proof is cast on the applicant so that however meritorious the pamphlet may be, still if the applicant cannot establish the negative the Act requires his application must fail."

An All Embracing Section

That is precisely what happened to us. We have once had a law which was assumed by many of the Members opposite including my Honourable friend, Sir Zafrullah Khan. and that law was the Criminal Law Amendment Act, and, as that law is there, the present Bill is its logic. I have not dealt with

these two sections of forfeiture, because I do not wish to exceed my time limit. If there was logic, how did it escape them in 1908? There is no logic in this sense that you want to cast your fangs or net much wider or longer in order only to suppress us. I say, we will not be suppressed. It is in that way, there is no logic. You have got to the point of declaring an association unlawful, and yet you may not carry all the provisions that you have hitherto given, because, if you were logical men, if your draftsmen were not stupid, I am sure, they would have known how to draft this Bill in 1908. But they did not then do so? With reference to what? With reference to associations professedly committed to violence and murder, and yet they did not think it right to add those provisions about forfeiture.

"If the applicant cannot establish the negative, the Act requires his application must fail. And what is the negative"

Please hear the negative. It will throw some light, it will have some little open windows which please do not shut:

"It is not enough for the applicant to show that the words of the pamphlet are likely to bring into hatred or contempt any class or section of his Majesty's subjects in British India or that they have not a tendency in fact to bring about that result. But he must go further and show that it is impossible for them to have that tendency either directly or indirectly and whether by way of inference, suggestion, allusion, metaphor or implication. Nor is that all, for we find that the legislature has added to this the all-embracing phrase 'or otherwise."

What I wish to point out to my Honourable friends is this. The language of the section is such that none of us know in what way a man may be caught. It is all very well to say, do not read the section, leave it. It is all very well to speak about some *Yugantar* or *Sandhya*; there is no logic. It is all very well to have the *Yugantar* at one end and the terrorist at the other end and squeeze all the rest in between for

argument. This is the way this case has been argued by the other side, and, I, therefore, do beg of every Member of the House, after he has known the wide implications, I would appeal even to my Honourable friend, Mr. James, that he will not stand for a piece of legislation that enables the Government to forfeit the security and ultimately the Press, with the aid of that all-embracing section which in the wisdom or unwisdom of Government, it is possible to make an order against and the negative cannot be proved.

Sir, I have done. I shall summarise my points in a few sentences. I say, Sir, it is perfectly useless to state in a legislature: "This Bill will not affect you. It is a very innocent law. You will not be hurt; only the wicked press will be hurt." These are the kind of arguments that no responsible man, no sensible legislator, no people who have the power and the initiative of legislation of a big land consisting of one-fifth of the human race will take seriously. They must take their task very seriously and very earnestly and not in this flippant way. They seem to think: "It is enough for us to say, Oh! it will not affect us, it does not work hardship to us; the laws are made and they are given by the Government in their beneficence and not to create any hardship." That is not the test to look at the law introduced in the Legislature. The test of a good law is the necessity of it, its propriety, its subservience for the good of the society; there is no other test and we stand by that test. We say that no man may curtail the liberty of another man or the liberty of the Press unless it is required to subserve the important purpose that we hold dear, and, starting from that premise, I have examined each section and each point of view, and, for the reasons I have given, I oppose the measure.

CRIMINAL LAW AMENDMENT BILL

16th September 1935.

Mr. President, I am glad to notice a certain

amount of good humour in the House. In the somewhat unusual step of opposing the leave that is asked for, I am doing so under circumstances which, I think, are fairly well described by the Honourable the Home Member himself. He has told the House that we are asked now to reconsider the measure which has been fully discussed and which, by a decisive vote, last Thursday, the House rejected. They refused to consider it. If there is a constitutional sense in the House, this is a matter that ought to affect the House itself—not merely those who rejected the measure, but also the minority who, as a matter of law, are bound by the same, if there is any propriety, any sense, any value in all the legal phraseology and Acts of the Government of India. Therefore, it is not a matter merely for those who opposed the Bill. The vote of the majority, I think the Honourable the Leader of the House will acknowledge, is the vote of the House: and loyalty demands that, at all events, in decency, all that they would do when asked for this leave is not to vote in support of it, for the simple reason that legislation in any Assembly of this kind would be impossible, and the Government of the country would be reduced to a mockery if this is the manner in which the House is to be treated by reason of the fact that there is a provision for a recommendation of the same Bill for reconsideration by the same House. I do not wish to use the somewhat hackneyed language about an insult to this House or an offence to this House; but I do wish to say this, in all earnestness, that if this House is merely to be used, whenever convenient, to register the decrees of the executive, and where they think it their duty to oppose it, then it is the will of the executive that should prevail, then it is one of those one-sided affairs in any Legislature in the world where they say when we agree, they should prevail, and where we disagree, then also they should prevail. It is, therefore, a matter of serious moment for the Members opposite to consider with a certain degree of greater earnestness than they are likely probably, in a sort of lighthearted way,

to give to it, whether their very existence here is a matter which is not called into question by the recommended Bill which has been brought before this House. If they feel still that nothing is a matter of moment to them, no Constitution, no law, no democracy, no validity of the majority vote of the House, they are entitled to the course which they adopted before.

We have often talked of the breakdown of constitutions. At all events, for the second time, during the course of two Sessions in this House, I have witnessed this, and this is the second. And, here, I wish to remind you of an article which a member of the "friendly press" published only yesterday—even that press has the decency and the honesty to recognise that on a proper analysis of the vote of the House, it was a vote of the bulk of the country against this measure; and, yet within less than a few hours, an executive decree has been issued that the Bill shall be brought back to you, in substance and in words the same as it was here before, and passed. It is not merely a question, as it is sometimes said, of self-respect—it is a deeper and a higher question; and there is a section of the House to whom I wish to appeal in order that they may follow the same traditions which they say obtain in their own country, while governing their own country, and that they will recognise their obligation to the majority of the House, and, therefore, to the sense of the House itself and not lend any further support to the Bill at a time when it is brought back to us again on this occasion: and, but for the fact that the Bill is in terms the same, and, in fact, we are asked to reconsider what is already decided, I should not have taken the course which I am taking and which I am asking the House now to take, that this House do refuse to grant leave for the introduction of this Bill,

CRIMINAL LAW AMENDMENT REPEAL BILL

17th September 1935

May I say a word? Standing Order No. 31 says:

"A motion must not raise a question substantially identical with one on which the Assembly has given a decision in the same session."

The shortest way to put the issue is this, has our decision of yesterday repealed the Act of 1908 ? That must be the only possible test. If my Honourable friend says, yes, I have no objection; but, I am sure, he won't say that. The true test is this. If it is the case of the Leader of the House—I am sure, he would not support any such thing, I am almost confident, but supposing it was so, he would have to answer the question in the affirmative, namely, inasmuch as yesterday's decision necessarily involves a repeal of the Act of 1908, there can be no debate now.........

Mr. President (The Honourable Sir Abdur Rahim): Yesterday's decision was that it shall remain.

Yesterday's decision does not touch the Act of 1908 in so far as the main provisions are concerned. The Act of 1908,—the main provisions, at all events, which have survived, are the power given to Government to declare associations unlawful, (a) those which incite to violence, and (b) any other associations which, in their opinion, disturb, I am using substantially the same words, disturb public peace. Having done that, there are certain other provisions dealing with being a member of an unlawful association and assisting in the operations of an unlawful association. Those are the substantive provisions of that Act. Undoubtedly, added to that, were certain provisions, all those which have been repealed by the House yesterday, namely, confiscating property or taking charge of it, and so on. The point on which I lay emphasis is this. Is the question raised substantially identical, because, in so long as what we call de-

claring an association unlawful and punishing people who are members of an unlawful association and for assisting in the operations of an unlawful association are concerned, the Act remains untouched by these provisions so to say, and, as was said by my Honourable friend, Sir Muhammad Zafrullah Khan, they are what is called the logical extension of the thing. In order to test what is substantially identical, you ought to say that our decision covers this, and it cannot possibly be said that our decision does it. I should be very glad if the Government thought so, inasmuch as we turned down the motion, we will now agree to repeal all this also. But, I am sure, they would not do any such thing. There has been strenuous effort spread over for more than 5½ hours to argue out the case. What we submit is that the motion for repealing the substantive provisions of the Criminal Law Amendment Act of 1908 is not a motion substantially identical with refusing to pass the further provisions of certain Act.

Mr. President (The Honourable Sir Abdur Rahim): The decision was that it shall not be made permanent.

Mr. Bhulabhai J. Desai: The Act of 1932. The decision is that the Act of 1932 shall not be made permanent but it does not, in the least degree, affect any decision, either direct or indirect, whether or not the Act of 1908 shall remain. There are some provisions which refer to the Act of 1908.

Mr. President (The Honourable Sir Abdur Rahim): What are these provisions?

Mr. Bhulabhai J. Desai: Section 6 of the Bill that was presented here deals with section 13 of the Act of 1932, which provides for section 17A, etc., in the Act of 1908. Substantially what remains of the Act of 1908 after repeal is this,—section 15, "association" means any combination or body of persons, whether the same be known

by any distinctive name or not," 'unlawful association' means an association—(*a*) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts; or (*b*) which has been declared to be unlawful by the Local Government under the powers hereby conferred", then, section 16 which gives power to declare an association unlawful, section 17 is penalty section which was sought to be supplemented by clause 13 of the Bill dealt with yesterday, and section 13 of the Criminal Law Amendment Act of 1932, says. "So long as this Act remains in force" the following section shall be deemed to be inserted in the Act of 1908, and so on, so that the position is this, that in so far as the Act of 1908 is concerned, irrespective of whether these provisions are passed or not, and, in fact, up to the year 1932 when, these provisions were not a part of the law at all, the Act of 1908 had still an operation as part of the law, and really that is the substantive part of the law that is power to declare an association unlawful and punishment in respect of persons who are members or who aid the operations. The other sections were sought to be added to that Act with a view to making it stronger and more effective. That does not affect the question we are discussing. You may not declare any class or group of persons unlawful by means of executive orders under section 16, and, consequently, you may not punish any person under section 17, so that the real and substantial point is this, though the motion yesterday covered a part of the supplementary powers sought to be added to the Act, the motion which is before you today intends to deal with a substantive Act itself, and, therefore, they are not substantially identical, one with the other, that is my submission.

QUETTA EARTHQUAKE

19th September 1935.

I take the responsibility of having drafted the Resolution,

though, by reason of the chances of the ballot, it fell to my Honourable friend, Mr. Raju, to move it before the House. Many interpretations have been sought to be put upon it, many insinuations are read into it and it is a matter of regret to me. The only explanation that I can give is the usual psychological one, which I hope my Honourable friends knew very well— that you read too much into what obviously is a matter of enquiry, and not necessarily a charge. It is either a case of guilty conscience. Why do you read more into this Resolution than what in fact it says? Why do you undertake to say, "We are accused of not having done our duty. Therefore, don't pass this Resolution"? Why don't you, as men entirely unbiassed in mind, having done your duty,—all persons must have an unstinted admiration for what was done—why do you read more into it than what the Resolution says? But you do so in the hope that by so doing you will bring round a few friends by saying "Oh, we are condemned persons and, therefore, please vote for us". That certainly ought not to be the attitude of the gentlemen opposite who are in charge of a big Government,—the so-called national Government of this country. They ought to stand above ingenious, somewhat astute and somewhat purposeful method of catching votes.

Why Shirk an Enquiry?

Sir, in all the great calamities that have occured, calamities of Nature and particularly that which has been most frequent in this country, namely, famine—it has always been the purpose and the duty of Government to hold an inquiry even before that particular event is over as to whether or not the rescue or the relief operations, as they were called, have been carried out in a manner satisfactory to the Government, satisfactory to the public concerned and also for the purpose of providing a lesson for the future. I am one of those who have a vivid memory of the year 1901 when

the Macdonald Commission came out and when famine was still raging in large parts of Gujerat and other parts of the country and did the Government then say that an inquiry could not be made as to whether the operations were rightly handled, whether the Government and their officers were ready with every kind of resource, for the purpose of future guidance? In an unprecedented calamity of this kind I would not blame any Government whatever for not having more than what it has at its disposal at the time. That is never the dispute. Let us not make a mistake of imagining that because the soldiers did their duty—I will take it—more than their human duty—we are trying to blame them. I will assume that it was their duty to do what they were called upon to do. I would not be cynical enough to say that if they had failed in their task they would have come in for blame, but you cannot at the same time ask us to present an address of congratulation to them for doing what I submit they were bound to do. All honour to them that they did it but, to come and suggest that because we are asking for an inquiry into what might have been omitted, what more might be done and what lessons we may learn for the future, we are trying to blame them—well that is a piece of logic which I cannot understand. It is a method or argument which I cannot possibly understand and have not yet understood. My friend, Sir Hormusji Mody, might understand it, but certainly I have had a little more logic and a little more of business in persuading judges of the Courts to see the right point of view. It is no use pretending that by this Resolution we are condemning anything that is done. What we are attempting to do is to have an inquiry into what was done, what more could have been done with a view to taking a lesson for the future, so that in cases of calamities of this kind, the Government may not find itself unprepared. Geological science has progressed and in fact Government has been in possession of a considerable amount of information with regard to those deltas, those belts, as to whether calamities

of this kind may be apprehended at some future date. You must, therefore, remember, that I wish the House not to read more into this Resolution than what it says. When any Member from this side of the House moves a Resolution, it is going to be your attitude "we must put our back to the wall and fight in the last trench". I think that will be the last trench of a demoralised government which will look on questions from this point of view. Why do you accuse yourself before we accuse you? All we are trying to do is to find out what was done. How can you, within the limits of a quarter of an hour, hope to satisfy this House or the rest of the country as to whether what was done was enough? Why should you shirk an inquiry, if all the glorious deeds on which you ask for our commendation have been already done? If that is so, you will come out all the better out of this inquiry, all the more unscathed and all honour will be given to you. But you come and say "Who are you to come and tell us what we are to do? We are the Government of this country. What we have done we have done and you shall rest content with that." Well, that is a position which I am here to repel.

I ask you to read the terms of the Resolution and see whether the stimulated address of my friend, Sir Hormusji, has any basis at all. The terms of the Resolution are these and I submit that any responsible government, having nothing to conceal, would immediately agree to accept it. The terms of the Resolution are these:

"This Assembly recommends to the Governor General in Council that a Committee consisting of officials and non-officials may be forthwith appointed to investigate and report whether the situation arising out of the recent earthquake in British Baluchistan and particularly in the town of Quetta was properly handled."

"Who excuses himself accuses himself"

Now, what is wrong in that? It does not lay the charge on you that you have mishandled. Where is the

accusation? My friend, Mr. Acheson, suggested, that Government is called upon to be accused at the bar—of whom?—of the committee which they will set up? The words are: "whether it was properly handled." If they are so confident of the work which they have done, they ought cheerfully to consent to this inquiry and say "we will have it. After all, it is not merely a matter of *prima facie* proof. I wish it were possible to arraign you all before a Criminal court." Then things would take a different shape; but that is not the issue at all. We are here dealing with a much more conciliatory, much more sensible and much more prudent Resolution and after all in every country, whether the Government is responsible or irresponsible, the Government owe it to the people of the country to remove all suspicions from their minds. My friend, Sir Hormusji, suggested, there may be an error of judgment. Let me assume for the sake of argument that there is this suspicion, that there was an error of judgment. It is due to the people at large that you should remove their suspicions. It is up to you to come forward and prove that there was no basis for any suspicion or rumour. But if you say: "you must give us your reasons for your suspicions about our mishandling and it is only then that we shall go before a court of inquiry" then it is really a case of who excuses himself accuses himself. All we ask is for an inquiry. If all the glowing accounts that you have given of your conduct are correct, what have you to fear? Are you afraid that some of these unfortunate sufferers will come before the inquiry and give their experiences which may not tally with your accounts? We cannot rest satisfied with your assurance that everything that could be done was done. We want the country to be satisfied. I therefore, submit, Sir, that when we ask for an inquiry in terms which convey no charge, no insinuation but which undoubtedly demand an inquiry whether or not that matter was properly handled, that it is not a matter that any Government, without, as I say, a guilty conscience and with possession possibly of

information which they dare not, and do not wish to disclose,—it is not a matter that any Government can ignore. If, Sir, neither of these circumstances exist, they ought to cheerfully accept this Resolution: in fact it is the very resistance to Resolutions of this kind which creates and confirms the suspicions of all people throughout the country as to the manner in which the situation has been handled.

And, now, Sir, I will take you, within the short time at my disposal, to the next two branches of the Resolution which call for an inquiry. The Resolution says "particularly". Yes, why do we particularize,—"and particularly in the town of Quetta, was properly handled, particularly as regards the search for and rescue of the living, wounded and buried, the salvage of property and the transference of the wounded and injured outside the affected area". Now what is wrong with that Resolution? What is the suspicion behind it? If you say: "we have rescued every person who could have been rescued; we have assisted every wounded that we could have assisted, and we have otherwise properly disposed of all people who were unfortunately struck down by this calamity", what, then, is the objection to our Resolution? What is the insinuation behind it? Sir, I cannot understand it.

But, Sir, there are certain documents published by or under the authority of Government which do really call for an inquiry, for it is easy to make oneself the object of pity and sympathy and to say—"here I am doing my duty, dying to do my duty, dead almost in the act of doing my duty, and here are these ungrateful people who are wanting an inquiry". Well, Sir, that is not, that ought not to be the way of a dignified and an innocent Government. Here, for instance, are certain facts namely, that at 3 A.M. in the night of the 31st May this horrible earthquake took place—and there is an account given of the rescue

work in an earlier statement published in the *Times of India* by the military officer addressed to General Sir Walter Leslie, and you have got a graphic and full account given at the very time, not made up afterwards, which will give you, Sir, the actual course of events that took place. He says, Sir, that: "on the 1st of June rescue work began at 7 A.M. and continued till 6 P.M.". That is the first statement that he makes. Then he continues, and I will continue the same subject of rescue—and he further says:

> "Conditions in the bazaar were getting pretty bad." *Then at page IV he says*: "Second June was a very bad day for the troops and could hardly have been worse. Rescue work started at 7 A.M. and continued until about 2-30 P.M." *And then he says*: "It was decided at mid-day that rescue operation must cease."

Callous and Inhuman

That, Sir, is the account as given in that report that was submitted. Now the same account appears, namely, what was read out by my friend, the Honourable Mr. Tottenham, but the most amazing of all the salvage stories is that of the Indian woman in the city who was buried for two whole days and then it was found that she gave birth to a child! Then, Sir, from the very statement published by Government at page 10 of the red book, it appears that during the interval, meaning thereby, I presume, "up to the end of the mid-day of the 2nd of June," well, the eye-witness records that "during this period nine corpses were being exhumed for every single live person found". Now why must I take it from those who were in charge of these operations that every single person who may have been rescued was dead by the mid-day of the second of June? It is indeed—and I speak with great restraint—it is one of the most callous statements to make? Sir, human life is valuable, as I hope my friends recognize,—and why must it, therefore, have been taken for granted, and now I will deal with the point as to why I say it ought not to have

been taken for granted. It was not because a person here was suffering from an epidemic disease; it was the type of case where say a wall merely of a house tumbled down by reason of this movement of the forces below the earth: and who dare say that though the top-most story may have fallen down, there were not and could not have been very many—as evidenced by the facts disclosed of the case of this woman giving birth to a child after two days of internment, and numerous other similar cases—cases of persons being supported by rafters or otherwise such as were sufficient to keep human beings going and keeping them from being crushed to death who might still have been alive. And now all that is said is that you must assume that at the end of the mid-day of the second of June everybody who could be saved was dead. I submit, Sir, having regard to the nature, the very nature of this calamity, you cannot assume that many persons might not have been entombed and still be alive between the 1st of June and the mid-day of the second of June. Then, Sir not only that; the matter does not rest there. When a telegram was sent to the Government, the very first answer that they gave was this. The Karachi reply was sent by the Commanding Officer: "No effort is being spared to recover the survivors from the debris of the city......promiscuous digging has closed ......". But what is the systematic excavation? "Troops detailed were able to cope with all the work"!

Trifling with Life

......Now, either we are to praise the heroism of the six thousand persons engaged in the maintenance of what you may call "utility services" and the remaining six thousand detailed for the purpose of this work! Sir an immense calamity of this character surely would call for many, many more men indeed being occupied whole days together! And here it is solemny and seriously said that when 26,000 persons were still buried and entombed, that the six thousand

persons detailed were well able to cope with all the work! Sir, I am quite willing to give whatever credit is due to the troops, and we are grateful to them for whatever services they rendered and for which we pay, but at the same time I am not prepared to take every statement that the Government make at its face-value. I am here to say that they ought to have realized that the paltry number of six thousand persons doing this duty was certainly most cruelly inadequate for the purpose, for, indeed time was the essence of the matter. Any intelligent person could have realized that the six thousand persons detailed for this work were of little value for the purposes of this huge task, which could easily absorb sixty-thousand men within the space of this time. And yet it is said—"we have done all we could"; and I will give you an idea, Sir, of when and how it could have been well tackled. I will give you, Sir, what is after all common knowledge. Karachi is fourteen hours' journey, Sukkur is seven hours' journey, Shikarpur is five, and Lahore is sixteen: and there must have been large numbers of people at work on the railway lines and otherwise who could surely have been drafted within a space of sixteen hours for undertaking this great work of humanity. And yet I am to be told here—"give us your praise; you are charging us; we have employed six thousand people on this work". But, after all, six thousand men surely were not at all enough to cope with the work that was to be done. And yet, when offer of help was volunteered, this Government turned it down! Sir, I ask your leave to read the answer they gave! Sir, it is not a personal question, it is a great question concerning people undoubtedly who were there. Sir, on the 1st of June the people of Shikarpore, through the Local Relief Committee made more extensive arrangements and chartered a special train to convey volunteers, foodstuffs, doctors, nurses and medical equipment. A large number of implements for excavation were also purchased. The special train was actually sanctioned by the authorities at Sukkur and was to leave at 4 p. m.

on the first but was cancelled two hours before departure, that is at 2 p. m. on that day. Therefore, it is a matter of trifling with life! You say they are dead. Undoubtedly they are dead! May their souls rest in peace! But nonetheless we cannot accept the excuse that more might not and ought not to have been done. I still make no charge. Government during the course of that inquiry may be in a position to show that it was impossible to get more than 6,000 men to do the work of excavation for the purpose of saving life on the 31st, 1st and 2nd. But it is up to them to show it. After all, we have known what resources they employed and the facts are there. They had only 6,000 men and they would not have any more. Is this House ready to pronounce that they did not need more than 6,000 men and that these 6,000 men were sufficient for the purpose of carrying out excavation work and to save some of the 26,000 lives which were lost? Are we here merely to commend their work and to present them with addresses? Sir, they are burking the issue. We are not here to charge those who have done the work. They have done their work well in the sense that all the 6,000 people put their shoulder to the wheel. We are here to find out whether more men ought not to have been here. We are not saying whether these 6,000 men did not do their work properly but whether it was not up to them to have rescued in a larger measure during the period of time when it was possible to do so. It was a case in which people might have been so entombed and so covered that it might have been possible to rescue them. In fact, it is common ground that only wherever the soldiers heard any sound of a living person crying for help that they attempted to see whether or not it was possible to rescue a living person. But was that enough in a case of this magnitude? Then, Sir, there is another thing to which I must refer. What happened after the 2nd of June? This is what the report says:

"From the 3rd of June to Saturday evening, the 8th of June,

troops were hard at work from 7 A.M. to 6 P.M. digging out the property of residents in Civil Lines and Cantonment area."

Salvaged property while people were dying

Now, Sir, what right the man in charge of these operations had to detail the soldiers to do this work? Even if the operations had proved to be futile it was his duty to have employed every single man that was available within the limits of the Quetta City for this rescue work for life even if it had turned out that they could rescue even one life out of one hundred. They had no business to turn away these 6,000 men from the work of rescuing life to the work of rescuing beautiful china. If these 6,000 men were allowed to continue their operations in the "native quarters", and had been able to dig in the hope and expectation that one more life might have been saved, I would have said: "All honour to them. "But, on the 2nd of June, they said: "We shan't do any more. We assume that everybody is dead." And then they go on to do this great work and say: "It is amazing to find the amount of stuff that had been recovered." Sir, what is more amazing to me is that some more lives were not recovered out of that debris. They say: "It is amazing the amount of stuff that was recovered undamaged; furniture, clothing, even jewellery, silver and glass was in many cases dug out from beneath the bricks, etc." Sir, if it was possible to dig out the debris ten feet high in order to get jewellery, silver, glassware, furniture and clothing, might they not have dug ten feet debris in the city during those days, even on the mere off-chance of finding some persons alive? This is a charge that I make but it is not a charge in the sense of making anybody answerable for it. But the point on which I lay great stress is this that the assumption and declaration that on the afternoon of the 2nd of June every single human life had been dead and, therefore, it was not at all necessary to do any further work for the purpose of rescuing life and utilising those persons who

were available for the purpose of finding out clothing and jewellery in the Civil Lines and the Cantonment area was a grossly atrocious act. The report goes on to say:

> "The troops have been particularly successful in salvaging what the dentists call dental plates. All the owners have had their property restored to them intact and undamaged."

I say no more damaging statement could have emanated from any responsible Government when they say this: "On the 2nd of June, we assumed that everybody was dead, but we did not assume that every piece of furniture had been broken. We must dig ten feet in order to find furniture, but we must not dig five or ten feet deep and continue to do so for the purpose, or even on the off-chance, of saving human life." That is why we have the second part of the Resolution which says: "particularly as regards the search for and rescue of the living, wounded and buried". Sir, why should anybody assume that on that fateful day, the mid-day of the 2nd of June, everybody had been dead and it was quite unnecessary to use even the resources that were available—let alone anything else—for the purpose of saving more lives? I am afraid I have not got much time at my disposal but there is one other point to which I must call the attention of the House. Offers were received from the Red Cross Association and other bodies and I honour all those who did that great humanitarian work. I wish to emphasise again and again that I honour every single man who engaged himself in this rescue work and did what he could. But that is not the issue. The real issue is: Firstly, why did you not try to have more men and, secondly, did you not apply your available resources to the higher and the better purpose? That is the issue and it is the issue which cannot be burked. That inquiry, I hope and trust, Government for their own purposes and not for the purpose of clearing their character will accept. Of course, they are honourable men and far above any

charge but nonetheless there is such a thing as the people of India otherwise they would not have anybody to govern. And, in order to satisfy these people of India, it is necessary to have a committee of inquiry. After all, it is not the Treasury Benches alone who concentrate within themselves and within their own souls all the available vitality and all the useful vitality of this land. I hope and trust that they will imagine that there is a humanity besides those who sit on the other side of the House and those who choose to associate themselves by reading red-books and other books. I say, therefore, Sir, that it is not the work they did that is condemned. What is condemned is the manner in which they did that work. I have no time to go into the details but the details are all available and will be available if my friends still think it worth while consenting to have a committee of inquiry. Offers were made from time to time from every available source not more than ten hours journey from the scene of disaster in order to render assistance but those offers were turned down with this remark: "We have enough resources and they are adequate enough to cope with the work." Either it was an error of judgment or it was the deliberate policy of Government. Nonetheless if that was the attitude that he took, why should not he stand an inquiry. If he said: "I have got 6,000 men and I have got 60,000 lives to save and I don't care whether they are saved or not but, for some reason or other, I won't allow you to come in", he should be prepared to face an inquiry also and justify his conduct. After all, the people who cared to go were volunteers and they would not have blamed anybody if anything happened to them as the result of the dangers which were mentioned. They were going there in the hope of saving their own brethren, their own kith and kin and their own children whom they would have liked to save even at the risk of their own lives. On such occasions you must take risk and they were prepared to take it. After all conditions

were not so bad at Quetta at that time. Water did not fail; sanitation did not fail; epidemics did not break out. Therefore, what I am suggesting is that for the second part of my Resolution, on the materials put by the Government themselves they have made out a perfectly clear case of inquiry.

Inadequate transport arrangements

The third part of my Resolution is:

> "The salvage of property and the transference of the wounded and injured outside the affected area."

I have no time to address myself in detail to the question of salvage of property but it is put in there for the important reason that the task of this committee would be to suggest measures in order that this property may be restored to their true owners in the most expeditious way possible. For indeed there is always an economic disaster following upon such a calamity, limited though it may be, and such disaster should be met and cleared in the shortest possible time. Coming, Sir, to the transit arrangement for the wounded and the injured, I beg leave to say a few words before I conclude. This is the report shortly made after it had occurred:

> "The first train which reached Karachi conveying the Indian wounded contained 288 patients. It was not an ambulance train but an ordinary troop train. The patients with fractured arms, legs, and hip bones were brought all the way from Quetta in a troop train with three berths one over another. An eye witness states that the whole train was *stinking as it arrived at Karachi. The sanitary* arrangements were inadequate and defective, especially as the movement of patients with broken limbs lying on the two upper berths was difficult. Some patients had developed gangrene. Four had died on the way. Doctors and nurses with the train were insufficient. When the train arrived at the Karachi platform, many of the patients despite their broken limbs had to be taken out through the windows of the compartments."

It is admitted by them that, up to the 8th of June, no ambulance train brought any Indian wounded.

Face the issue clearly

Sir, I have done. My submission to you is this. My Honourable friend, Mr. Acheson, said, he was appealing to those who had not already made up their minds. May I humbly re-echo his words. May I humbly say that to those who have not made up their minds merely to allow the Government, as I said, each time, to adopt this particular obstinate and stubborn attitude of saying,‘ ‘who are you to question us”—We are not questioning you. We are only humbly knocking at your door in order that you may lay the whole information about all the work you did at the disposal of and before an impartial enquiry. But there is a two-fold purpose in this Resolution. It is first to find out what has been done and what ought to have been done and why every offer was rejected and secondly this Commission of Enquiry would also have the purpose of suggesting means and measures and ways of expeditiously dealing with this unfortunate chapter in so far as its economic aspect is concerned. Much more than that, we will know what had been done. We will then know how much has been done and how much we will have to do in future when a calamity of this kind occurs, so that the Government of the future would be prepared as to the best way and the most efficient way of meeting a calamity to the extent to which such unprecedented, unanticipated and unexpected calamities are capable of being met. Sir, I do appeal to the good sense of the House not to raise wrong issues, not to pretend and salve their conscience that they have answered them. We are not charging that the troops did not do what they were called upon to do and, therefore, any amount of praise of them is not going to cover the real purpose of the enquiry. All honour to those who did the work. On behalf of those

whom I represent, insignificant though we are in power but significant as we are in numbers on behalf of those whom we represent it is on their behalf that every assistance given is most suitably and appreciably acknowledged, but we are not going to allow that to be an excuse for burking an enquiry. Therefore, let the issue be clearly faced. We make no charges, we make no insinuations. I would have been very glad if the Government were arraigned at our bar, but at present all we are asking for is to set up a committee, and ask the Government to place all their materials honestly and straightforwardly and candidly and fully. Let us have our say, let the sufferers have their say and let the Commission then pronounce upon it. Therefore, I ask those who have not made up their minds, I call upon them in the name of India, in the name of those who have suffered, in the name of those for whom you pretend to sit here, even though nominated or elected, I call upon each one of you to support a Resolution which conveys no insinuation and which only demands an equiry.

CRIMINAL LAW AMENDMENT REPEAL BILL

24th September 1935.

Sir, I had no intention of taking part in this debate, particularly because while speaking on the Bill of 1933 which was sought to be revived and made perpetual, there were certain important matters of principle with which I have dealt but the events which occured today have made it necessary for me to perform what I feel a duty which I owe to those sitting on this side of the House. But before I deal with them in detail, it is also my desire to express in a very few brief sentences my own experiences of the manner in which the Act of which sections 15, 16 17 and 18 survive has been worked during the last four or almost five years, and of the way

in which it has been operated. At the time when this Act was passed in 1908—and I have gone through the speeches with great care—it was stated in this House, on behalf of the Government, that a crime leading to violence and involving murder and looting was a crime that they could not detect and wanted to put down and for that purpose they wanted to be armed with special powers. As they always have done—and I do not wish to go over the ground which I have covered last time—either through negligence or through astuteness, this is what is incorporated in section 15 :

"Association means any combination or body of persons whether the same be known by any distinctive name or not. Unlawful association which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts."

Get what they want by creating Scare

If the Act had stopped at that, it would certainly have served all the purpose for which it was intended. But, as is always the case and notwithstanding the charges that have been made I venture to repeat that the Government of this country in particular during the last some 20 years have always armed themselves by rushing legislation either through this House or its predecessor, created a scare and they have got what they wanted, in the first instance by the professed objects which they have in view, either as I said by a piece of ingenuity or otherwise they have got incorporated clause (*b*) which this House or its predecessor ought never to have passed and which they passed believing and hoping and trusting that the executive was what they professed themselves to be governing this country for its common weal and good and not for the suppression of all forms of national life and national consciousness. It was for that reason, though I do not wish to be uncharitable, but at all events it was with a view to catch whatever they thought was unfavourable to them-

selves whatever they thought was likely to hold its head against their supreme and sublime power that they had enacted in the law clause (*b*) or what has been declared to be unlawful by the Local Governments under the powers hereby conferred. It is those wide words, followed by the power conferred on the executive under section 16, which has made the Act pernicious in its operations, atrocious in all the work that it did.

An unholy charter

Sir, I am often told to give facts. I challenge the other side to take the map of India as large as they like and plant the national flag which we adore on every single town or village in which an association was declared unlawful during the last period of four years and I defy them to see anything in that map at all. In other words every single association that stood for nationalism, and I know numerous ones in my part of the Province including those which had for their purpose no other than prayer and encouragement of other types of noble aim or physical exercise purpose intended for the purpose of amelioration of this land, was declared illegal by them having got this charter in their hands, an unholy charter used for unholier purposes. That is the way in which this Act has been worked. I am witness to the fact that in 1930—and all the law reports of all the Indian High Courts will bear witness to that fact—when every single case went up, in most of them fortunately I was associated with the defence during the first year until I myself became the victim of this particular Act, and I remember very well how this section 17 was applied. That section runs :

> "Whoever is a member of an unlawful association or takes part in meetings of any such association contributes or receives or solicits a contribution for the purpose of any such association or in any way assists the operations of any association shall be punished."

The last part, "assists the operation of any such association" has been put to uses of which even the Courts of law became themselves ashamed. I know a case, and I will give you only one, where a meeting was going to be held at Chaupati sands which, even though the Bombay Congress Committee was declared unlawful, at all events purported to have been signed by somebody under the auspices of that association. The Commissioner of Police having come to know of that meeting himself published a proclamation under the Bombay Police Act prohibiting that meeting. A newspaper, a most respected and a most moderate one, one that has not yet come under the scrutiny of this vigilant Government published first the report that they had information about the meeting that was going to be held. Immediately below that, in the same column they published the proclamation of the Commissioner of Police and yet this Government, taking advantage of the language of the Act, put up the Editor for trial on the ground that he, by publishing the information as to that meeting, was assisting in the operations of the unlawful association. When I appeared before the Court, two Judges presided and I put it to them, was it unlawful to publish the words of the Commissioner of Police which said :

"Whereas it has come to my notice that a meeting is advertised to be held at Chaupati sands I hereby prohibit the same."

That part was perfectly legitimate to be published in the newspapers and yet they said the section does not say that it is by any unlawful operations of any unlawful association. In other words, it is all very well to rely on promises made at the time when these Acts are passed, when the executive, with all care and protection of the millions of this land, come to you to be armed with authority. We have learnt by experience to see the use to which they can put it and the degree of insincerity and hypocrisy which they themselves have been guilty of,

by reason of their own professions which they do not keep. Because their own Advocate General appears and stands before the Court saying, "My Lord, what have you got to do with the promise of the executive except to give effect to this Act?" Where is the word "unlawiful" before the word "operation"? It may be any operation, however lawful, however benevolent, however good, however progressive, however useful; but so long as we the condemned persons choose to do the right acts, even the right acts become unrighteous, and that becomes an offence under what is called the law of the land. It is, Sir, these two sections which now survive, and reading clause (*b*) and reading sections 16 and 17, it is one of those charters which have been abused during all the years of its existence in a manner that calls for a vote of this House for the purpose of its repeal. I would have undoubtedly given you a great deal more of detailed information about the working of this Act, had I the time at my disposal, but I have intervened in this debate for another purpose too.

Maintain the traditions of the House

I felt, Sir, during the time that the Honourable the Home Member was addressing the House this morning,—much as I respect his self-possession and his experience,—that he should not have really allowed himself to be carried away in the manner in which he did. Next to you, Sir, the Members on this side of the House look to me to protect their honour and their sense of respect, and it is, therefore, my duty to examine very briefly, and enter a humble but emphatic protest against the manner in which the privilege of the House was used. My Honourable friend, Mr. Sham Lal, only made charges, or what he called repeated the charges, proved against the police in the judgment of the High Court itself. The sentence on which he relied was this:

"We trust that the lesson to be learnt from this trial will be taken to heart and police officers who have at all times to perform a difficult task will never again disgrace their force and cause such a waste of public time and money as in this case."

He had, therefore, the authority of the judgment of the High Court in what has been described as a protracted trial to justify the position that he took up. His only ground was that the executive are apt to abuse the powers given to them, either by scaring the House, by creating a fright or by exaggerating dangers, and that therefore, we should beware lest we should entrust them with too much power in advance, notwithstanding the promises of their good and benevolent use. My Honourable friend, Mr. Griffiths, seems to think that you can make any law you like and surrender the life and liberties of the people so long as the executive promises to use it mildly. I do not take such a view of the law or of the responsibility of this House. And when my Honourable friend got up to protest against the abuse of the law, as illustrated in the case in which he had the honour to appare, he came in for a personal charge against him. I am not here to question the correctness of the ruling of the relevancy of the episode. I would like to close it myself if I could, honourably to myself and honourably to those with whom I am associated. But he came in for a direct charge of having disgraced his profession and having disgraced himself. And to make it worse the Honourable the Home Member said that for reasons of prudence alone they did not take any action against him in the High Court of Judicature, forsooth with a view to save expense, —the last infirmity of which they can be accused. And yet, Sir, on what was that based? On two letters, one which purports to have been addressed to one Sham Lal and presumably intercepted by the police. And if this is the manner in which documents are to be used in order almost to blackmail this side of the House,

for indeed it is quite possible to produce any document which any man may produce and put it in the hands of the Honourable the Home Member, he may be perfectly entitled to believe that it is *right* or just or correct; but I trust that in his better judgment and in his calmer moments he will see that if a similar process were repeated against him from this side of the House he would be the first to protest against it as being almost infamous on our part. And yet that is the charge which he did not flinch from making on materials on which no responsible man and much more the Honourable the Home Member should act. As I said, I am one of those who have done my level best, almost against the grain sometimes, to maintain the traditions of a House of this character. I do not pretend to be a man who has been versed in them as you, Sir, have been. And yet the fact remains that there is something innate in a man's education and character which prevents him from doing things which after all our honour damands that we shall not do. And, Sir, it is that respectful protest that I wish to make. And the process of reasoning went like this. He says there were these two letters written, one to Sham Lal and one to Gopal Singh. After that certain events took place in Court; after that a certain statement was made in Rawalpindi; after that a prosecution was undertaken which was withdrawn; and yet, without the basic foundation which I hope and trust my Honourable friend will acknowledge that my Honourable friend, Mr. Sham Lal, did not appear for Krishna Gopal at all. And yet we have been entertained to an exhibition both of temper and of accusation which I think he will only do well not to repeat. What we do, therefore, is to enter our emphatic protest.

So far as his own conduct of the case was concerned, the Judges who tried it have said this :

"We cannot close this judgment without expressing our gratitude to the learned counsel on both sides for the great assistance they have

given in this complicated case. They have shown complete mastery of details and the case has been presented on both sides with fairness and accuracy. Their ability and industry had shortened the hearing," etc.

Sir, on a former occasion also I entered my protest against what I called the *argumentum ad hominem* which cannot prove anything at all. And yet it is surprising to me that with that self-possession for which he is distinguished, the Honourable the Home Member still thought that by levelling a personal charge against Mr. Sham Lal the repeal of this Act would in the least degree have been affected. It almost looks, at least to my mind, as if having no better argument you try almost to foully and falsely accuse your opponents. That, I submit, is not the proper function of debate either on this side of the House or the other, and I shall stand for that principle and see that it is obeyed, so far as I can control the proceedings of this House, by advice, suggestion, persuasion or even a respectful appeal. That is the standard for which we stand in support of the traditions of this House, I say that two of these sections are formal and as regards the other, it is now time—it has lived 27 years in ignominy and to the prejudice and detriment of India and the national cause—that it should now die a deserved death.

SECURITY FROM "ABHYUDAYA"

10th February 1936.

Sir, it would be very unfortunate if an issue of this importance were to be determined on the ground that the Government cannot find a day for its discussion. That appears to be the nature of the difficulty that is sought to be presented to the House in dealing with this matter. I can assure you and the House that I have no desire to travel over the ground that has been covered, but I feel it my duty to examine the three points which emerge

from the questions put by you from the Chair as well as from the speeches of my Honourable friends. In substance, this motion before the House is a complaint brought before the House that there has been an action amounting to breach of its privilege, and the question before the House is whether or not the complaint should be dealt with. I wish all other considerations for the moment to be set aside before approaching this issue in the proper way in which it should be approached. The motion amounts to this that by an executive order there has been a breach of privilege of the House, and I will deal with the matter in the manner in which by interlocutory questions, the Chair was putting it to the Members who have already taken part in this debate. The first and the foremost point to be remembered is that, so far as this House is concerned, it is of recent origin, and therefore, you cannot find a 200-year practice as you would find with reference to the House of Commons in dealing with matters of this kind. Sometimes the practice of the House of Commons is cited when it suits certain objections, and sometimes it is said we must now go back to our rules. That, I submit, is not a method which is to be encouraged except to the extent that it is found entirely obligatory on the Chair.

Mr. President (The Honourable Sir Abdur Rahim): If there is anything in the rules which forbids following a certain Parliamentary practice, then it cannot be followed, but if there is not, and if the rules are silent, then the Parliamentary practice is followed, and what we want to find out is what is the right procedure.

Mr. Bhulabhai J. Desai: Therefore, the question before the House is whether there is anything—and I shall deal with the rules in a moment—whether there is anything in the rules which is inconsistent with the suggestion that is now being made by my Honourable friend, Mr. Jinnah,

that it is a matter which falls entirely outside the contemplation of the rules as they stand, for the fact remains that there is nothing in these rules dealing with how matters of privilege are to be brought before the House for its discussions, for its determination and for its decision. If a *prima facie* case is made out, it is necessary to bear in mind how the matter would be dealt with by the House of Commons, what course it would have taken at that stage in the House of Commons. In the House of Commons, as my Honourable friend, the Leader of the House, read out page 471, it takes this course:

> "A committee upon a matter of privilege may be appointed and nominated forthwith without notice."

He afterwards said that this is not material. But it is extremely material in order that you may be able to see what is the course to be adopted. Therefore, the matters to be dealt with are two ; the first is, how and to what extent it has precedence over the rest of the business of the House, as it is called "public business." And I want you in that connection to read pages 264 and 471 together. Page 264 runs as follows:

> "A privileged matter can also be brought forward without notice (*the next sentence is important*) before the commencement of public business and is considered immediately on the assumption that the matter is brought forward without delay and that its immediate consideration is essential to the dignity of the House."

My Honourable friend quoted this in an entirely different context hoping that it had only value from his own point of view. He was pointing out and emphasising the word, "delay", but the real importance lies in the earlier and substantive part, namely, "A privileged matter may also be brought forward without notice before the commencement of *public business*. All the rules that he has relied on are rules of what may be described as "public business", in other words, public business emanating or initiated by Govern-

ment, or public business (in a limited way) which is allowed to be initiated by the non-officials. The very terms of the practice lay down quite clearly that this matter is outside and above public business, in that it is a privilege of the House; so that, when it concerns the House, naturally everything else gives way to it. Therefore, the rules which are there have got no bearing, and I shall read the rules in the light of this statement of the practice of the House of Commons. There are two ways in which the matter is dealt with. It may arise out of something that occurs in the House. It may arise out of something that occurs outside the House, but when it occurs outside the House and does not primarily concern the House itself (as in the case of privileges of the House), it takes precedence over the business of the House, in the narrower sense of the adjournment of the House for the purpose of discussing matters of urgent public importance. Now, why does the other business of the House give way to that particular Resolution?

Mr. President (The Honourable Sir Abdur Rahim): That is provided for in the Rules.

Mr. Bhulabhai J. Desai: I know that. Here it is a question of the House itself. Whether the word "privilege" is used or whether the word "right" is used is a matter of little consequence. I submit that it would be proper to analyse even the term "privilege" as it has been discussed in relation to this particular motion, so that the importance of the matter may be appreciated. My first answer is that it would be very unfortunate and it would not also be right, if my submission is correct, if this matter is merely shelved or dismissed, because it is said that Government may or may not be able to find a day, but if my submission is right, it does not depend on their discretion to block the House to maintain its own dignity, because that is the ground on which it is put. I submit that its immediate consideration is essential to the dignity of the House, so

that the matter cannot rest on the discretion of the Government to find a day or not. The matter rests entirely in the discretion of the House itself, subject of course, to the ruling by the Chair whether the motion is otherwise in order. Now, the two issues here are whether there is a *prima facie* case for consideration by the Committee and whether or not a privilege is involved. If it is made to appear *prima facie* that a privilege of the House may possibly be involved then a committee must be appointed. Then the issues before the Committee would be two, firstly, whether or not there is a privilege of the House which is involved in the matter at all, and secondly, whether a breach of such a privilege has taken place by the particular action which is complained of. On that the Committee will report to the House, and the House will consider the issue and come to a decision whether there has been a breach of privilege. Then you put it to my friend, Mr. Jinnah, that so far as this House is concerned, it has not yet developed by precedent or otherwise the power to constitute itself into a tribunal and to call before it at its bar persons guilty of the breach of such privilege, but I hope and trust that it will take a lesser time, having regard to the knowledge now gained of democrotic institutions in the world, before such a power is assumed by this House. As to when it will do it, that is another matter. Whether this House is in the position of punishing individuals or parties who are guilty of the breach of privilege is not a matter which should stand in the way of the consideration, first, whether the privilege which is claimed exists, and if so, whether by the action in question that privilege has been broken. What the rule says is this:

"The Governor General, after considering the state of business of the Chamber, shall allot so many days as may, in his opinion, be possible compatibly with the public interests for the business of non-official members in that Chamber and may allot different days for the disposal of different classes of such business and on days so alloted for any particular class of business, business for that class shall have

precedence. On other days no business other than Government business shall be transacted except with the consent of the Governor General in Council.

This rule, if it is read literally, comes to this that there is no day for the House to have this matter discussed at all. Either it is a day allotted for the discussion of non-official business or it is the monopoly of the other side of the House. Consistently with this rule, we say, all public business, so referred to in rule 6, has to give way to this paramount business, namely, the preservation of the dignity of the House and the consideration of a matter that affects its privileges. Then Sir, rule 24A does not carry the matter any further:

"Save in so far as is otherwise provided by these rules or in any case in which a communication is to be made to the Governor General in Council under any provision of the Government of India Act or of these rules, no discussion of a matter of general public interest shall take place otherwise than on a Resolution moved in accordance with the rules, etc.

The argument is that this, being a matter of public interest, is barred by 24A, but a matter may have two phases. It may be a matter of public interest. It may also be of higher interest to the House itself. You cannot oust the object of privilege of the House, because it also may be a matter of general public interest. In one sense, the privileges of the House are matters of public interest, but you cannot strain those words to oust a matter of the privilege of the House, because the privilege concerned or its breach, namely, the act concerned, either or both may be otherwise matters of general public interest. It is not as if only one side of the House is concerned in this affair. I hope and trust that that will not be the position and that cannot be the position of even the irresponsible Government sitting in this House. The argument used is that this is a matter of general public importance, and, therefore can only be dealt with by a Resolution.

Mr. President (The Honourable Sir Abdur Rahim) If it is a question of privilege which concerns all sections of the House, then why not invoke 24A. ?

Mr. Bhulabhai J. Desai : What I am submitting is that this is not primarily a matter of general public interest. The confusion of thought arises in this way. The speech may or may not be of public interest. I mean the publication or the prevention of the publication may or may not be a matter of public interest. That has nothing to do with the issue.

Mr. President (The Honourable Sir Abdur Rahim) : Motions for appointing Standing Committees and things like that all come within 24A ?

Mr. Bhulabhai J. Desai : And, with great deference, I do not believe very much in objections of this kind which are largely indulged in really on the other side. I am more concerned with the substance.

Mr. President (The Honourable Sir Abdur Rahim) : If it is a question of the privileges of the House, that is also a question for every section of the House. If that is so, then why not bring it under rule 24A ?

Mr. Bhulabhai J. Desai : I say, it should be outside the matters of public which rules are expressly made.

Mr. President (The Honourable Sir Abdur Rahim) : Why does the Honourable Member say 24A does not apply ?

Mr. Bhulabhai J. Desai : Let me put it this way. I do not say that it may not be brought under 24A, but what I do say is that 24A should not be pleaded in bar of my first contention, I may have brought it up as a matter of Resolution, but it would not be the appropriate way.

Mr. President (The Honourable Sir Abdur Rahim) : If there is a definite procedure, why should I assume....

Mr. Bhulabhai J. Desai : I am giving the answer, because, if this is the definite procedure, it comes back to this that, in so far as the moving of Resolutions is concerned (on the hypothesis of which we are now working), I will first Answer that by referring to sub-rule (3) to which my attention has been called. What is the hypothesis on which this matter has been argued? The first point is that the Government not only can but will block, if they can, any Resolution for the purpose.

Mr. President (The Honourable Sir Abdur Rahim) : Must I assume that?

Mr. Bhulabhai J. Desai : There is a further objection. All the objections taken clearly show, to any man of common sense as I submit, that certainly a Resolution, if it were ever tabled in this matter, could only emanate from the non-official Members of this House.

I am reading 24A :

"No discussion of a matter of general public interest shall take place otherwise than on a resolution moved in accordance with the rules governing the moving of resolutions except with the consent of the President and of the Member of the Government to whose department the motion relates."

Again, if it were a matter entirely resting with you, it would be another proposition. So far as the Member of Government is concerned, we have heard what he has got to say. I must go further. In other words, what I am submitting is that if these rules really block or can successfully block the argument of a matter of this kind, you should, as I submit with great respect to you, rule that *this is a matter outside the rules.*

Mr. President (The Honourable Sir Abdur Rahim) :

The Chair would like to know whether the Honourable Member's position is that 24A does not apply.

Mr. Bhulabhai J. Desai: The Governor-General may disallow any motion or part of a motion on the ground that it should not be moved, cannot be moved, without detriment to the public interest—this has already been done—or on the ground that it relates to a matter which is not primarily the concern of the Governor-General-in-Council. Evidently they seem to think that it is the concern of this House to protect its dignity and not for the Governor-General-in-Council to protect the dignity of the House. They are entitled to say that. But they are not concerned with that, it is not primarily their concern, I agree it is primarily our concern.

Mr. President (The Honourable Sir Abdur Rahim): So far as the Chair is concerned, it cannot, in interpreting the rule, proceed on any such assumption.

Mr. Bhulabhai J. Desai: As regards this particular matter, you have the fact that it has been disallowed. Therefore, the fact remains that given a second time.....

Mr. President (The Honourable Sir Abdur Rahim): That was on an adjournment motion.

Mr. Bhulabhai J. Desai: It was not disallowed on the ground that it was on an adjournment motion....

Mr. President (The Honourable Sir Abdur Rahim): Supposing it had been brought up as a matter of a breach of privilege?

Mr. Bhulabhai J. Desai: What I am trying to submit to you is that he has disallowed it on a matter of substance; whether it was on a Resolution or on a motion for the adjournment of the House is immaterial. What I am submitting is, whether it forms the subject-matter of

an adjournment motion or it forms the subject-matter of an ordinary motion, in either case it is disallowed on the ground that the discussion of the matter in whatever form it is brought up for discussion is contrary to the public interest or one which does not primarily concern the Governor-General-in-Council.

Mr. President (The Honourable Sir Abdur Rahim): Supposing the form was that it was purely a question of the breach of privileges of this House, the question the Chair wants to put is, whether the Governor-General could have disallowed it.

Mr. Bhulabhai J. Desai: Sir, I am not really asking you to have any assumption, because the matter is, in fact, disallowed, the reason is given, the reason being that it cannot be moved without detriment to the public interest; and also on the ground that it is not primarily the concern of the Governor-General-in-Council; and, I submit, with respect, and within the letter of that rule, that it could still be said that, it being a matter of the privileges of this House, it is not primarily the concern of the Governor-General-in-Council that it is primarily the concern of the House, and, in that sense, within the rule. If it is put that way, he might be right, but what is the consequence of the possibility of his being right? The consequence of the possibility of his being right is that it being barred under all other rules, and the order of the Governor-General barring it under this, there is no means of discussing the privilege of the House. If you argue that the two matters are substantially identical,......

Mr. President (The Honourable Sir Abdur Rahim): Then, in that case, the House will be asked to reverse the order of the Governor-General-in-Council, if the Honourable Member argues it in that way?

Mr. Bhulabhai J. Desai: That, again, is an assumption.

If it fell within 24A, then the House undoubtedly could go counter to the order of the Governor-General, but it is precisely because it stands apart and outside the rules, that I have been arguing thus, and my submission is that, once you bring it within the rules, you are merely putting the House under conditions which, I submit, so far as privileges are concerned, it would not be right so to do. By an effort to bring it within the rules, you are also invoking the restrictions under sub-rule (3). I am not suggesting that this is done perversely or otherwise, but supposing, *bona fide* under the advice of a legal mind, the Governor-General says "it is not primarily my business", then what are you doing? This is what you are doing. You are reading into the rule something to say that, on the one hand, it cannot be moved without detriment to the public interest, and, on the other hand, it cannot be moved on the ground that it relates to a matter which is not primarily the concern of the Governor-General-in-Council, and, between the two, the result is that you cannot have the discussion of such a matter. I am giving an additional reason, Sir, for the purpose of holding that a privilege matter may be brought before the commencement of public business, I say, if you make it part of the public business, and if you admit by stretching the point the possibility of bringing it within the rule, you are then doing so under conditions which could not be consistent with the very nature of the case, that is to say, you may conceivably make discussions of a matter of privilege impossible; if it is thought and may be rightly thought that it is not a matter that primarily concerns the Governor-General-in-Council, and, with all respect, if I may be allowed to say so, it is not a matter primarily the concern of the Governor-General-in-Council, it does not affect them in the least whether this House has any privileges or not or whether it is broken or not. Therefore, my submission is that, so far as the rules are concerned, they should be treated as providing for what may be called public business to the extent to which provision was necessary

both by way of permission as well as by way of restriction; but they do not exhaust the right of the House to discuss its own privileges as and when occasion arises and they stand outside, and, in some respects, above these rules. That is my submission in regard to the first point.

Coming to the next point—it has also been dealt with by my Honourable and learned friend, Mr. Jinnah, as well as by my Honourable friend, Mr. Govind Ballabh Pant, to a certain extent—a few passages were read out by the Honourable the Leader of the House, and now it should be remembered that complaint having been brought before the House, what the House is now called upon to do is, whether or not this is a matter in which it will appoint a Committee in order to consider the two issues which I have indicated, namely, whether or not, as defined or claimed, the privilege exists, and whether, by the particular act, there has been a breach of privilege. On that, all that I have to make out, is, whether it is what may be described in the language of Lord Shaw as a stateable matter for investigation, and, from that point of view, I submit with all respect that it is not only a stateable matter for investigation, but it is a very important matter for investigation.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member will find the expression "*prima facie*" is also used.

Mr. Bhulabhai J. Desai: I am only trying to show that "*prima facie*" case means on the face of it, it is not to be thrown away.

Mr. President (The Honourable Sir Abdur Rahim): That is really the same thing.

Mr. Bhulabhai J. Desai: Only he puts it in a manner which perhaps expresses it a little more strongly so as to bring the importance of it to one's own mind. Sometimes

the word "*prima facie*" depends on the person who looks at it, looks at the face of it, and, on the other hand, when you look at it the other way, it is something where you do not like the face of it. Similarly, you do not like the face of some of these motions. However, that is a matter of some regret. Therefore, the point really resolves itself into this. On that, Sir, there is one important matter to which I want to call the attention of the House. In 1932, a similar matter affecting the privilege of the House came indirectly in this way. I do not wish to go into these debates at any length, I only wish to give the purport of them without taking much of the time of the House. Mr. Gaya Prasad Singh gave notice of a question:

> "Will Government be pleased to state if, under any Ordinance or Rules made or orders issued by an executive authority, newspapers would be penalised for publishing reports or the proceedings of the House?"

An answer was given to that question, and, on that, a motion was made for adjournment of the House on the ground that the answer was unsatisfactory. The question appears on page 545, Volume I, dated 10th February, 1932, Legislative Assembly Debates. The matter came up before the House on a motion for adjournment and the proceedings relating to that motion appear at page 657, and from a study of the debates you will observe, Sir, that one of the most illuminating speeches made on that occasion was by yourself. The Mover of the motion on that occasion quoted from where my Honourable friend, the Leader of the House, stopped at page 109 of May's Parliamentary Practice, as showing that it is a matter of the privilege of the House whether or not a newspaper should be penalised for a faithful publication of the report of a speech made in the House, and I see that Mr. Ranga Iyer who brought that motion quoted from page 109 of May's Parliamentary Practice (13th Edition); in fact, it is a continuation of the three cases which my Honourable friend read. At the top of page 109, we find this:

"The privilege which protects debates extends also to the reports and other proceedings in Parliament."

I read that only with a view to show,—because you were pleased to ask,—that authority can be quoted to make out a *prima facie* case for the existence of the privilege which is claimed. But the matter does not rest there. I submit that the House on that particular occasion treated it as a matter of privilege, and it was put in this way by Sir Abdur Rahim at page 661,—and I adopt this as a part of argument:

"If the debates are not allowed to be published, then the position will be reduced to this. This House will be turned into a mere school debating society, as was mentioned by one Honourable Member not long ago. We are here not only to speak to the Government Benches opposite,"

—of course, they do not seem to bother much about it so that that would not be of much value,—

"but to speak to a wider audience, the public. This is our privilege, this is our right and this is our duty."

Therefore, Sir, it could not be put better than thus to say that any penalisation by an executive order of a report of a speech in the House involves a breach of privilege, in the language of the Honourable Member who was then speaking to the House, for the purpose of the protection of the privileges of the House. And I only wish to add that I am merely adopting this as part of my argument, because I cannot put it any better. It is not because it is a question of quoting something against an author when he happens to be a Judge. I know sometimes it is a very inconvenient position.........

Mr. President (The Honourable Sir Abdur Rahim): Speaking for myself, I think the fewer the quotation like this that are made, the better. It is rather embarrassing

to the Chair and it is rather unfair to the other side who may not like to criticise any such speech.

Mr. Bhulabhai J. Desai: I will not do it. It is for that reason that I qualified it by saying that I adopted it as part of my argument. My submission is this, that, as I submitted on a previous occasion on a motion relating to the detention of Mr. Sarat Chandra Bose, who was then a Member of this House, the privileges of this House are not a matter to be merely dealt with as if, because they did not exist today, they would or should not exist at all, that they cannot grow or that they must be found within the four corners of section 67 (7). Otherwise, if you accept the line of argument that is adopted, no privilege of this House would ever grow at all; say that there is no question that this House has dignity, any value or any representative character and that this House appeals to and educates the larger public of this county. What is the importance of all the representative men who are here? I am referring to those who are representatives. The representative character will be destroyed by a prohibition of the publication of their speeches subject to an important safeguard as was pointed out sometime ago. This House has the right or privilege, on attention being called to it in any particular speech that it happens to have defamatory or seditious matter, to expunge it from the minutes of this House, and in this way the publication of such portions of the speech may be prohibited. If the Secretary of this House may, in a certain book published under its authority, publish the same speech, but that is not to be made available more widely either by translation or otherwise on another day, I want the House to see the very absurdity to which one is reduced. The history of the Parliament preventing the publication of its debates has taken an entirely different turn;—the Government sell this publication,—so that you really want to reduce it to a publication of this matter as a monopoly of Government. Elimination of all truly objectionable matter can be achieved

by the rules in this way that all seditious or defamatory matter can be struck out. And, that being the privilege again of the House, it is the right of the House that these things should not be published. And, if once they are not published, I take it that *prima facie* a speech that is otherwise allowed to be published is a fit matter for constant, frequent and widest publication. And, if that is so, we submit that we have made out a *prima facie* case that there is a privilege of the House of which by the act alleged there may conceivably be a breach. Therefore, I submit that what we ask you to rule is that this matter so far as the time for its discussion is concerned falls outside rules 6 and 24A.

Mr. President (The Honourable Sir Abdur Rahim): Supposing a motion is moved like this complaining of breach of privilege and supposing the Governor-General disallows it, has he got power to do so?

Mr. Bhulabhai J. Desai: I submit not; that is precisely the point. That is why I said that rule 24A should not be strained in this manner. Because, if it is self-destructive so far as the discussion of the privileges of the House is concerned, because we may not be able to discuss it at all, therefore, I submit, that it should not be allowed to be done. So far as the point of time is concerned, we submit that it should be proceeded with in the manner in which it would have been proceeded with in the House of Commons, namely, that the matter should be continued before the House and a committee of the House should be appointed after any discussion that may take place. As regards a *prima facie* case, we submit we have said enough to show that it is a matter which clearly requires investigation.

CRIMINAL LAW AMENDMENT REPEAL BILL

13th February 1936.

Sir, in the first instance, I wish to assure you that

"When an Act expired or was repealed, it was formerly regarded in the absence of provision to the contrary as having never existed except as to matters and transactions passed and closed."

And, Sir, that was a very salutary provision of the law which, by the General Clauses Act and by other Acts operative in that behalf, was adhered to continuing the proceedings and prosecutions and allowing the sentences of imprisonment and fine still to be suffered by persons even though the Act may be repealed. It was strenuously urged upon you at the time when the closure was sought to be moved at the time of the debates in Simla, that sub-clauses (2) and (3) were independent and did not necessarily follow as a corollary from sub-clause (1). As a matter of interpretation of the General Clause Act, that undoubtedly was true. But equally it is true that, prior to the enactment of that Act, the English law stood as I have already read to the House. And, therefore, if the Repealing Act was to be passed, it was necessary that sub-clauses (2) and (3) should also be passed, in view of the provisions of section 6 of the General Clauses Act. So much, Sir, for those two sub-clauses which have been read. There is one more matter that I wish to add in reference to sub-clauses (2) and (3), and that is that whereas in a case of long-standing ordinary legislation sub-clauses (2) and (3) might well be regarded as unnecessary or uncalled for, with a legislation of this type to which exception is taken as a matter of principle, it is undoubtedly essential that the expiration of the mischief, should we succeed in attaining it, should also be coterminous with the cessation of all prosecutions and with the results which follow under sub-clause (3) of sentences of imprisonment and fine which have not been suffered or paid. It is because we object to this Act on matters of principle that we submit to the House that sub-clauses (2) and (3), though not necessary corollaries by reason of the statutory provisions of India, are a necessary sequence of repeal and must be accepted

"Which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts."

Define the mischief precisely

I am reading all this to show to you, Sir, and to the House, if I can, and to the extent to which I can, that in every single Statute the right tendency in modern times has been that whenever any power is conferred for the purpose of meeting any mischief that the mischief shall be defined in terms so precise that it cannot be the subject conceivably of abuse except in a dishonest manner. Therefore, so long as section 15 (2) (*a*) stood, one could not take any objection to it should the executive make out a case for the requirements of an exceptional power to meet the then real and proved emergency. But when you come to sub-section (*b*), you have there a provision the like of which it is impossible to find:

"Or which has been declared to be unlawful by the Local Government under the powers hereby conferred."

You might as well have had no sub-section (*a*). Sub-section (*a*), in the language of Sir Mohammad Yakub, is what is called camouflage, for if you have sub-section (*b*), namely, "any association which has been declared to be unlawful by the Local Government," it is difficult to understand why, except for the purpose of sheer deception, sub-section (*a*) was required at all. But the truth of the matter is this: that it is the same old story. So long as Legislatures, and willing and submissive Legislatures are to be found, having perhaps made out a case on some difinite matter which can be precisely stated, you then proceed to say: "Now that you are in my grips. I want you to give me a further unchartered power." It is that which is the subject of real mischief, it is that which has been the subject of real abuse and it is that against which the House now protests in the way of this Statute for its repeal. For section 16 under which the power to declare unlawful associations is given is in these terms.

"If the Local Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the Local Government may, by notification in the official Gazette, declare such association to be unlawful."

And the test of it all, again, is a form of drafting which, unfortunately, is not scrutinised carefully during the time whenever a scare is created. I put it to you, Sir, and I put it to the House that if that section had only said: "If the Local Government is of opinion that any association may by notification be declared unlawful," the section would have exactly remained the same; for what is the section? The section is: "If the Local Government is of opinion. etc.", so that it is a matter of little consequence, there is no examination of how that opinion is arrived at, there could be no examination of how that opinion is arrived at. Then why do the words after 'opinion' read that the association either interferes with the administration of the law or with the maintenance of law or order or that it constitutes a danger to the public peace? I can well understand a piece of legislation where it was possible to examine the existence of the grounds on which the Government was going to act and form its opinion. Then there is indeed some sense, some point some materiality in those words, but inasmuch as you cannot examine the opinion of the Government at all, it is not competent to any tribunal to examine that opinion, you might as well wipe out those words from the section and read that section as if it ran:

If the Local Government is of opinion that an association should be suppressed, it may by notification declare such association to be unlawful."

Will of the executive to be law?

Let us, therefore, not remain under any delusion in the company of Captain Lal Chand who might have conquered India, but gave it up to the Britisher for the sake of peace.

It is a matter of extreme regret that men after men should get up in this House and read this, take what it does not mean, take what it cannot aim at, and deliver addresses which at least it is sad to hear. He talked of exploiting young men, but what about exploiting old men from time to time and times without number? I wish and trust that a generation will now rise when there may be the exploitation of old men and the exploitation of the young would be an impossible situation. This lip-sympathy for the exploitation of young men we all know is perfectly futile and cannot be sincere. Let us fully understand what this Act stands for. If you take away its verbiage—in that you cannot examine it—no tribunal can examine the grounds of the opinion—if you take away the verbiage from this Act, all that the Act can say is: "If an Indian Prince, whose will is law, had declared such an Act, he *might have* been asked either to abdicate or perhaps been sent on a holiday." For the Act really and truly means—and I want every man before he votes against this measure of its repeal to fully understand and not let himself remain under any delusion or under a mistake—that it is Government's opinion which is not liable to be criticised, an opinion which is not liable to be displaced, an opinion which is not liable to any examination by any impartial tribunal; therefore, the grounds which are there stated are a worse camouflage. All that legislation is that the will of the executive is to be the law of the land, no more and no less than the sultanates of many States, many Eastern States where the British-loving public from time to time had considered them States, where life is not worth living, life is not worth a moment's purchase, life is not worth a minute's purchase. So it is not for those who are safe and immune from the disablities of visits from the executive to really realise their implications and the main significance that underlies this power. Most of the legislation of these times has within it many words, but it is those words which are catchwords and it is for that reason that

the House should realise what it is that we stand for, and not merely say that I am here to protect the communist because I am asking for the repeal of this law. What prevented the Government during the last 28 years' existence of this Act from saying: "We will repeal sub-section (*b*): we will repeal section 16, but we shall add a further category to sub-section (*a*) which encourages or aids persons to commit acts of violence or intimidation, etc., or who are members of any communist organisation"? But it does not suit them to have any definition or limitation, any precision over the powers that are asked. You begin first with a sort of thin end of the wedge: you persuade the too willing mind as if you are only dealing with persons who are encouraging or aiding persons to commit acts of violence or intimidation, and, under the guise of that, you come along with the next general section conferring upon the Local Government the power to declare *any* association unlawful which is inconvenient to them; and as if that was not sufficient, there is a pretence there which is recited in every single case that is given out for the purpose of notification under the Act. I, therefore, wish to call the attention of the House to the really wide—in fact very wide—scope of this piece of legislation that they should not remain under a misapprehension that anybody is going to examine the opinion of the Government, whether, whenever they declare a particular association to be unlawful, whether it was a proved case of interference with the administration of law or with the maintenance of law and order.

Sir, I will say a few words more about what fell from Sir Muhammad Yakub. It seems to me a surprise that a lawyer of his intelligence, always anxious not merely for the time being but for the future Governments which he hopes and trusts that the popular party in this land will come into possession of—that he and Sir Abdul Halim Ghuznavi seem to be the only unfortunate recipients of

some red leaflets which are read out here; and during the course of reading, a false impression is created as if there is any vouching for either their source or their truth: for all I know or care, of the circumstances under which they have appeared on two occasions here, one may draw one's own inference as to where they emanated from. But forgetting the origin of it, it is easy to read out as if he had already vouched for the truth of it, as if he had already proved it to the satisfaction of the House that it was obtained from men whom he personally knew. A great deal is said as if it was the propaganda of a proved genuine source which was to be treated as a mischief to be dealt with by this Act. This kind of argument, I hope and trust, will not go down with the House. The House is called upon to consider solemnly only one thing and that is whether or not the time has not come when such unchartered liberty is to be given to the executive whereby the life and property of individuals who dare stand for the freedom of their land is to be in their keeping or not. I, therefore, have the honour on behalf of those who believe that to be pro-India is not to be anti-British, and, therefore, standing as we do on that platform which every man of honour should respect, to ask that the motion which is before the House should be supported.

RAILWAY BUDGET

24th February 1936.

Mr. President, perhaps the one single largest item in the public debt of India is under the head of railways. That being so, I am one of those who cannot look upon this matter and the analysis of it in the somewhat happy and detached manner in which it has been approached by the Members on the Treasury Benches. For, after all, the most important issue to be faced is how and in what manner is the tax-payer, who has annually to find the

money to pay from 29 to 31 crores, called interest charges, is to be helped out of the continually growing burden of this country. It is from that point of view that it is necessary to approach this question rather than the way in which it is approached in the admirably candid manner of the Honourable Member who presented this budget. I was reminded, when he presented the budget, of a surgeon who comes and says: "I have examined the patient very carefully, I believe there is no hope for him." If that is the type of surgeon we are going to employ, I am afraid we have employed him in vain. What we, therefore, need is *not merely a diagnosis of what he calls* the ever growing disease every day, but also a suggestion of the manner in which the disease is to be met. For, indeed, the manner in which the whole of this budget item is prepared and approached is wrong. It is economically wrong, and it is still more wrong from the point of view of the present condition of railway finances which my Honourable friends rightly described as insolvent. It seems to me that the budget is conceived in this spirit: that there is a certain amount of fixed expenditure which cannot be interfered with, all you have really to do is to see how you can find an equivalent income, not merely from the source which is the subject of discussion, but, if necessary, from the pockets of the tax-payer. That certainly is a happy-go-lucky manner in which a budget of this kind can be approached as it is approached; for it is easy enough to say, "Every year we are losing and we have also almost exhausted the depreciation fund."

Make the industry Pay

The time is ripe when undoubtedly, without approaching the question from that point of view, it must be approached from the point of view of the tax-payer of this country. The way in which the matter has been dealt with is not one that will commend itself to the expert employee of

any Government where responsibility of any kind rests on his shoulders, irresponsible though he may be to this particular legislature. It is not enough for him to tell the House : "Oh, I am not here to create revolutions ; I am here to carry on the deficit from year to year ; do what you like". That is not the answer that I expected from a man who has not joined the service with the same fetters on his mind or on his principles as his other colleagues have. I expected that though he may not be able to present immediately a budget which is balanced, he would approach it with greater courage and with a considerable amount of fearlessness of criticism, not so much from us as from his own friends whose pockets he dare not encroach upon. I for one am often told : "You on the other side give us general advice." It is a very cheap way of describing the efforts that we make to show what principles should be adopted for the purpose either of general administration or of a particular approach thereof. If you appoint commissions what do they do ? Do they sit down every day with your expert and sit down and tell you in what manner the principles which they lay down are to be applied from time to time by the permanent executive of the country ? It is undoubtedly up to us to define the point of view and the principles which should underlie the management of a concern like this ; and it is up to the experts to adopt them, though they may not be responsible to us, at least they are expected to be responsible to conscience and responsible to a certain extent to the right principles. It is for that reason that I want in the first instance a correct approach to this problem. And before I define the principles further there is one more matter to which I wish to refer because of the way in which it was mentioned by my Honourable friend, Sir Leslie Hudson. He said that the new Federal Railway Authority is going to take over charge of the railways of this country and that there is a provision in the Act whereby the Governor-General-in-Council will have the right or the authority to state at what particular capital charge it is to be taken up. I wish

to warn those who would be in charge of such an adjustment against doing an act which would be really an act of spoliation, in the name of what is called over-capitalisation. It is not a case of over-capitalisation in any other sense than this that the Indian Government from time to time has borrowed money for the purpose either of building some or acquiring other railways. There can be, therefore, no question of over-capitalisation in the proper industrial sense at all. But I do not know if what is meant is that a part of this capital liability is to be transferred to the general liabilities of the country and that the future federal railway authority is to be put in the happy position of being able to say: "We have got an asset for half the money and therefore whatever we produce appears by a jugglery of figures to be a profit", thereby enabling them not merely not to decrease the expenditure but comfortably to increase it from time to time. The greatest danger of writing down the capital for any such purpose would be immediately this that it would be possible for those in charge of that concern to be able to say that expenditure need not be cut down. And, therefore, it is time, Sir, that they realised that in so far as this particular adjustment is concerned it will be an adjustment of taking over this particular concern at what it has cost the Indian tax-payer through the Indian Government and not a pie less. There is an insidious danger underlying the proposal and the suggestion which is being made, the danger being that you would not have that inducement for the purpose of making this industry pay as it ought to be made to pay. And that is a very important point of view which must be borne in mind in future. It is not merely a tale of woe that we shall not be able to balance the budget because the successor of the present Railway Member, the Federal Railway Authority, would be in a very happy position if he is to be told: "Oh, it does not matter. Now, you pay interest charge on 400 crores instead of 800 crores, that being the actual value of the assets today,

and, therefore, in place of 31 crores you will only have to find 15 crores. Therefore, you have committed the greatest possible feat in finance, namely, balanced your budget and shown a profit". That is the one danger and a very serious and insidious danger that I notice in the suggestion, innocent though it may appear on the face of it on this particular occasion.

Don't add to the burden of taxpayer

The separation of the railway finance from the general budget was intended for quite a different purpose because it was hoped to produce two results; first, economic management and second, a contribution to general revenues. It has failed in both, but it has succeeded in one, namely, that the railway finances having been separated the railway federal authority has been found easy to introduce into the Government of India Act. So that, instead of finding an advantage from what was supposed to be financially a very convenient arrangement with better and more hopeful results, it has resulted in loss in both directions. They have contributed nothing, so far as general revenues are concerned, for all practical purposes: and far from balancing the budget by a measure of economy they have always shown a deficit at the cost of the taxpayer. But the third result which is still more serious is a matter against which it is necessary to sound a note of warning; and I hope and trust that being an item of debt incurred by the Government of India they shall not, and I hope will not, transfer by means of a subterfuge of this kind an additional liability to the tax-payer the responsibility of which must remain with the Federal Railway Authority for all time.

That, Sir, is the principal point which has to be borne in mind. There are two other matters to which I wish to allude on this question of railway finance. Undoubtedly I am one of those who fully understand that

one should approach the question of railway finance from certain amount of definite minimum expenditure which cannot be avoided. It is not like an ordinary industrial concern where you may first estimate your expense before you start on the venture at all. But in that there is one important point of view which must be remembered. The railways started some 70 odd years ago largely from strategic consideration—though for budget purposes only a small item is described and treated as strategic—largely based on its utility for the movement of troops in this country, as it is undoubtedly for the purpose of the movement of traffic. So that railways in this country have served from the very commencement and in the earlier stages a paramount purpose—the paramount idea has been the holding of this country. It should, therefore, be remembered, and it is also a known fact, that with a view—in those days of trouble—to expedite the building of railways, a disproportionate amount of expenditure per mile has also been incurred and if it comes ever to sharing the burdens of the 800 odd crores and more and more money which has already been spent away in the guarantee of interest until the acquisition of railways, the time has arrived when an adjustment will have to be made out of this, but this is hardly the time for a discussion of that matter. But it should be remembered that in so far as approach to this question is concerned, inasmuch as it serves a double purpose, I am in entire agreement with Mr. Satyamurti that a percentage of this should also be allocated for this purpose as a part of the general budget included in the military expenditure, for then only we shall know how much of the capital and interest charges are to be borne by at all events that one voracious claim which is being made year by year and increased from 29 crores, to where it stood last year of some 54 or 55. I, suggest that in so far as this budget is concerned, there are two things to be done; and so far as traffic is concerned, undoubtedly it is the duty of a railway, subject to qualifications which are well known to experts,

it is not so much a question of what it costs to carry as the value of it to the consumer, namely, the man who wants the freight. Among the causes which are given of the failure of the railway to balance its budgets are (1) the world depression and general collapse of commodity prices, and (2) the striving after self-sufficiency by almost every country in the world including India and development of internal trade competition.

Adapt yourself to changing conditions

Taking first the first—the general collapse of commodity prices—is it or is it not to bear a proportionate and certain amount of fair rate in so far as the cost of carriage is concerned, and is it to be the ground for saying that though the commodity prices have fallen, the value to the consumer is proportionately higher in the freight that you charge, is it still not only to remain the same, but should go up now in order only that you may be able to get more and more revenue? I am one of those who believe, and I put it to the Honourable Member, whether the very reason that he has given is not a reason for taking a bolder course and so shaping his freight policy as to adapt it to the falling or to the general collapse of commodity prices, so as to produce what he complains the other countries have done. His complaint appears to be that what other countries have done is that they are trying to be self-sufficient, meaning thereby, I take it, that the exports from this country (which become imports into the foreign countries) are getting lesser and to that extent movement of traffic is lessening. If that is what is meant, why may he not take the example of the very countries which he gives as a cause for the lessening of our revenues, and adapt the policy of the stimulation of internal trade and of production by the very processes by which the other countries have adapted themselves? I entirely agree with Sir Leslie Hudson that it is the one department, so far as

Government is concerned, which refuses to adapt itself to the changed conditions and after all, adaptation is the law of life except where life is kept up by means of the higher oxygen power that exists on the other side. If they are really to live properly, if the export employed by the taxpayer is to live, it is their duty first to adapt this freight policy, and, without being a prophet and without offering cheap advice and understanding what little I do of freight-making in this country, learned probably with the assistance of their own experts, I may confidently tell them that their only right policy in the matter of freight is to adapt the freight to the fallen prices of the agricultural products of this country and thereby increase the internal trade and production of the country. For, that is the only sane, that is the only right policy, and is never likely to cost them anything at all. The fact today is that on a lesser movement of trade they make a little better money in order that they might be able to show a lesser deficit. But that is little consolation. Even if they earned the same amount of money by lowering the freight, increasing the internal traffic and increasing and assisting in the internal production they would have certainly rendered a better service and acquired the same sum of money,—though I am one of those who are optimistic enough to believe that with the revision of the freight policy adapted to the very actual conditions which are said to be the causes of the depression he would repair the very mischief which he here deplores.

One-sided 'sanctity of contract'

Next, Sir, the only other point that I wish to urge upon is that I am told—at least we were told—that there were difficulties in the way of the revolutionary change which is suggested in balancing a budget of this kind. To be brief, you can balance the budget in one of two ways. Comparatively simple though it may appear, and though it

should always be a matter of businesslike transaction, you must find where you can add to your income and you must find where you can reduce your expenditure. So far as adding to your income is concerned, it depends on the efficiency of the services that you provide. As that is a subject of constant discussion in the House, I will not dilate upon it, but that is a matter that does not appear to have received sufficient attention from the Member in charge of this particular department. In addition to the efficiency of services to provide, you have also to see that you create more demand for your freight which is always available, in that it is one of those means of transport which is to run continuously, hour after hour and day to day. It is these two fields into which sufficient search has not yet been made, in order to find out a commercial and a more prudent way of managing what, after all, was entrusted to them. On other side, when it comes to finding your expenditure in normal cases, one would have said, one would have thought that if a particular industry or business did not pay, you would share the burdens, the loss with all the colleagues, with everybody engaged in that particular industry. But there does not seem to be the same principle applicable to this particular one. In fact, it is said "what about the obligations incurred?" If it is possible to employ men on a new scale which in due course of time will save you three crores of rupees a year, of what is it the test? It conclusively proves one thing that the service which is rendered by the men today occupying the same place is certainly worth less by three crores than they are paid today, for what is the meaning of saying that we are in a position to replace all these men by people who are willing to work on a wage which will be less by three crores, only where they have all filled up their places? Sir, they suggest that you cannot cut down the salaries of those who are in the enjoyment of salaries today. But indeed when the time of depression, rise in prices or other reasons come, with what equity do they go to the Finance

Member or the House and say "Our salaries are insufficient, they must be increased." ? Has that fixity of salary ever been regarded as restrictive of their claim of excesses? Equally, in equity, I cannot see how, when circumstances have altered, we cannot go back to them and say "It is up to you, for the very services that you render, we can get substitutes at prices which will enable us to balance our budget, and if you will not accommodate yourself to the prices, you have all the time on a false and deceptive method claimed all the excesses that you have hitherto enjoyed." We on this side, therefore, believe that looked at as a budget of any individual business concern of any kind, it has failed on either side. It has failed in that so far as expenses are concerned, there is no approach to the budget of making it a proper business concern. It has equally failed on the income side in that it has not done all that it should do,—in fact, it has followed a policy which to a large extent is responsible for the reduction of its income from time to time. It has not taken advantage of the very situation by which the prices have fallen and accommodated itself to the circumstances so as to confer directly or indirectly the equivalent benefits in the shape of better services, better internal distribution and a larger production in this country. Sir, I support the cut that has been moved.

GENERAL BUDGET

9th March 1936.

Sir the Publicity Department of the Government of India has somewhat of a chequered history, and, if you turn your attention to the Provincial Governments, you will find that they tried the experiment, but have now given it up in favour of a much better course to which I shall presently come. But the fact remains, that, so far as the Government of India are concerned, they, from the

Publicity Department point of view, have, during the last three years, been engaged in activities to which it will now be my duty to call attention on this motion. Sir, they compile this information for the purpose of preparing what is described as the "moral and material progress of the people of India" for the particular year in question; and, in addition to that they usually, in a belated and second-hand sort of way, issue certain 'communiques' for public information: and, at the end of that, there is nothing that one can see in the activities of that Department, whatever may be its internal combustion. So far as any outside activities are concerned, they appear to be all which appeal to the public. So far as Provincial Governments are concerned, there was a time when provincial Governments each had their publicity departments. Financial exigencies and other considerations have swept most of them away. The survival and the success of that department of the Bombay Government is to be attributed to the fact that it has been conducted throughout by a journalist of long experience who also happens to be a barrister and has, therefore, been able to combine with his publicity work the duties of Commissioner for Workmen's Compensation, and the result has been both efficiency and economy, and, at a time when one looks for every avenue for reduction of taxation, it is no exaggeration to say that, not only the maintenance of this Department, but its augmentation and the continuous recurring expenditure involved is all very wasteful. Not only that, but it is my duty to call attention to the fact that the Standing Finance Committee, which has conducted itself, in so far as recommendations which came before it were concerned, with considerable restraint, with a great deal of moderation, and a wisdom which is unsurpassed, they still found it necessary to check at least the rake's progress so far as extravagance in this particular Department was concerned, but, disregarding all that, all the items which have been rejected, still Sir, from part of the demand under this head of the Home Department, it is easy to re-organise its

respectfully submit to the House that in so far as and until the Government remain what they are on their own confession, irresponsible and irresponsive to public opinion, this head of expenditure is entirely unnecessary and should be spared so far as public revenues are concerned. But, if it were merely that, if it were merely a matter of luxury and extravagances, one might have tolerated it along with numerous other larger extravagances. But when you come to its actual work for the purpose of the obligation that is imposed upon them under section 26 (3) of the Government of India Act, they have exceeded all bounds of propriety and decency and, if they had been private individuals, from the extracts which I propose to read and comment upon, the House will agree with me, that they had committed a really indictable offence and that they would be liable to action, so far as libel is concerned and in so far as their other activities are concerned, they tell their own tale, they do not see that they do not play the game even of an irresponsible autocrat. It is that which is more important. It is for that purpose that in recent times the department has been strengthened. In particular, I instance the moral and material progress as it is called of India in 1933-34 which has been published by the Government of India. It is necessary to call attention, in view of the section that I have read, to the prefatory note which is somewhat important and valuable.

"This report which has been prepared for presentation to Parliament is issued by the Bureau of Public Information.

Then follows a somewhat amazing and astounding statement even by an irresponsible Government:

"This is compiled and published by the Government of India under the authority and with the general approval of the Secretary of State for India, but it must not be understood that the approval either of the Secretary of State or of the Government of India extends to every particular expression of opinion."

particular expression of opinion. That language is wide enough to cover every expression of opinion. They might as well have said, "we are placing this before Parliament under a duty imposed upon us, we have expressed many things, take them as true or false, we do not hold ourselves liable to you". In other words, to whom they owe allegiance and to those to whom they owe a duty, they do not perform that duty in good faith, because their sole and absolute purpose has been to depart from that duty for entirely different purposes.

Hybrid product

There is one more observation which is necessary at the outset. If that book is carefully read, as it has been read by some of us, it appears that it is a hybrid product. There is internal evidence in that book of differences of opinion differently expressed in different language even on the same issue itself and the reason is not far to seek. It is almost common knowledge that while a regular report is compiled, so far as the materials are concerned with a view to general expression of opinion, there is added to it as a preface the first Chapter which is intended to do no more and no less than see wicked motives into every single movement which, during the year of report, has been conducive to the progress of India, the object being, it appears that they do not understand and they cannot conceive any goodness in others because looking into themselves they cannot find it in themselves. Not only that, it is not merely a reflection of their own mind, but it is a feeling of apprehension that the good work done by those who serve the public should be a recurrent and daily commentary on the millions of this country wasted by them for purposes alone for which if they hold themselves to be trustees of taxes collected, they ought to be performing those tasks. It is for these two reasons that the first Chapter has

All. that one can say is this that nobody ought to realise better than the Leader of the House that by saying that some observers saw in the Harijan campaign motives other than a purely altruistic desire to remove disabilities, in no Court of law and in no court of conscience can he be immune from the responsibility of that statement by merely attempting to say that some people observed it. For he knows as well as I do that whether he puts it in the mouth of some or few or none, the responsibility of the publication lies upon him, and, therefore, it is no use trying to take refuge behind vague expressions of that kind. Sir, in the name of the Party to which I belong, and not only that but in the name of any honest work in this country, we wish to repel with indignation, resentment and scorn the method in which and the manner in which they read in the great work that is being done in this country for the reorganisation and solidarity of those who belong to the Hindu faith and for the good and higher purification of the public life in general. They say that there was no altruistic high motive, which they knew was there, or at least ought to have known of its existence if their conscience had not already been hardened, besmeared, if not dead. They could have easily seen in it the germination of one of the greatest movements of which even they, if they had undertaken it, would have been proud. Sir, Mahatma Gandhi, so far as this particular work is concerned, in the book that he published, "My Soul's Agony", has stated in very few words, but words that cannot possibly be improved upon, the object that he had in view :

"I have addressed this appeal to you which proceeds out of my soul's agony. I ask you to share that agony and shame with me and co-operate with me, for I have no other end to serve than to see *Sanatana Dharma* revivified and lived in its reality in the lives of millions who at present seem to me to deny it."

Abuse of power and waste of public money

Sir, I have also the figures supplied to me by the

description. We might as well say that Government found another calamity, sometime following that earthquake, in order to rehabilitate, if they ever can, their prestige by excluding Congressmen from participation in relief at Quetta. But we certainly are not so mean as to read motives of that type. We will accept at their face value the assurance that it was in the interest of the Quetta sufferers that Government took the attitude they did, though there is evidence enough which was laid before this House in the Simla Session, pointing to the contrary, particularly the callousness to human life which resulted from that particular exclusion. But the fact remains that the whole idea of this report and the object of Government behind it is to see that those whom you cannot fight, those whom you cannot destroy, you might at least slander, standing and protecting yourself behind the supposed performance of a duty. The greater details I have no time to read but they have been all exposed in the public press. They went to the length of saying that so far as the Bihar Government was concerned, they expended Rs. 3,000 odd on administration of earthquake relief as against what they falsely alleged as a lakh and 28 thousand by the Central Bihar Relief Committee. They had soon to correct it by saying that the lakh was a mistake and 28 thousand was the actual expenditure. But they did not say what they ought to have said that in addition to the Rs. 3,000, all the officers and the whole of the machinery under them that took part in Bihar relief was paid for, paid for from the public revenues: whereas, every single co-worker in the cause of relief, whose services they have acknowledged in a later chapter, was a man who was a pure volunteer. And I am happy to be able to state that the rigorous economy which was exercised was such that it was pleaded in vain for a pice worth of addition per day in order that the worker might get a little milk once in the day. Mahatma Gandhi with his austerity said: "We are here in the face of those who have lost all, and, therefore, we ought to economise to the last pie in order

MOTION FOR ADJOURNMENT

23rd March 1936.

Subhas Chandra Bose

Mr. President, the matter which has been put before the House requires a little closer examination than what has been applied to it by either the Honourable Mr. Hallett or the Honourable the Leader of the House. The real question underlying the announcement that emanated from the Government resolves itself into this that they are now adopting methods—somewhat subtle methods of caution—of exiling people from this land only on their belief that, if they return to the country, the normal activities, by which this country is to be prepared for a democratic constitution,—to make people alive to their rights and their obligations—are all to be treated as crimes. One could understand the Russian method of lifting a person to be sent to Siberia and not allowing him to come back. There is undoubtedly a subtle improvement on that—the announcement that is made which is the subject of the motion this afternoon. But let me define the three issues as I ask the House to see in the matter which has been raised for debate.

The three issues

The first and foremost, as to which there has been a considerable amount of begging of the question, is the fundamental issue of the civic liberties of any Indian whatever not to be detained either inside or outside the country or exiled without a trial before a legally constituted tribunal under the law of the land. We shall never concede the right to any Government whatever to detain a man under those circumstances and to address arguments on the lower ground—on the ground "has a case been made out for executive action?" in substitution of the higher right and claim which we should always maintain for the freedom of

men. That is the first issue, and on that not a word has been said as to why, during the years, when, except on one occasion when the Government had evidence enough, he was tried under section 124 and sentenced—on all succeeding occasions he has been detained or externed under circumstances under which, if there was evidence, it was the duty of the Government to try the man before a tribunal. The only answer, therefore, so far as that is concerned, is that, the Government not only do not propose, but do not venture to justify their action on the ground with which we have been familiar, namely, that the witnesses' lives are exposed to risk or danger, because there is no other reason given, so far as I am aware, by the Honourable Sir Henry Craik, in defence of the policy of detention without trial. All that he said is: "We have information which is not entirely based on police reports, but we are not able to let it out lest the lives of persons who have made statements, and would, therefore, be witnesses in the case are exposed to danger and to risk". But which are the true risks when we consider the broader issue? Is it the possible risk to the life or limb of a supposed witness who may or may not be telling the truth, or the liberties of the man who is deprived of it without trial, and his services being lost, so far as the country is concerned? It is impossible to bring home to this House, and particularly to those sitting on the other side, the agony of a high-souled man to whom the deprivation of the opportunities of service to his land is the greatest punishment—greater even than that which you can inflict upon him. It is impossible for me to imagine what freedom and liberty means when they talk glibly about conditions in Bengal. To that, I now next address myself. The principal issue is not whether the condition in Bengal has changed. The principal issue is: "Have you any evidence of the intention of Mr. Subhas Chandra Bose on his arrival in India of engaging himself in any activity—whether it exists independently of him or not?" In fact before a jury, the

meanest possible jury, Sir N. N. Sircar would not dare address such an argument. He says: "I am not here to tell you that I have any evidence as to the man, as to whether he has the intention of taking advantage of his presence in this country to ally himself with what may be still an existing condition or not. On the evidence I have it that conditions exist of which advantage may or can be taken". They use words which are very difficult, they read sentences without any relation to each other, they read statements without bringing it home to persons as if those statements convey the actual declarations of the man himself. The true issue, therefore, before the House is this, for I do not recede from the first position that I took up, that this House, I hope and trust, will always stand for the civil liberty of man and a trial by the constituted tribunals if there is any charge against him. But assuming for the purpose of argument that there is a part of the House that requires the issue to be dealt with on the lower ground, I ask myself and I ask the House the question "has a word been said yet in support of it?" A history has been given to you which would be the history of the most innocent and the most respected hero of any country. It is said, he has capacity for organisation, he has ability, he has education, he took part in non-co-operation with which evidently Sir N. N. Sircar and his colleagues have no quarrel. He may have taken part in civil resistance with which also they do not see any quarrel or any vice. Therefore, the growth of a man in support of the liberties of his land and the methods that may be pursued—the earlier history—instead of being a credit seems to the little minds of those persons something against an individual. In fact, to us, who have been suppressed, the example of the growth of a man's mind and the way in which he ungrudgingly gave up his service for the freedom of his land—is anything but a crime that is said to emanate from him. I cannot see how, except the single fact of this letter of Krishna Das—taking as correct the evidence as to its genuineness which has been read out before

order to take his proper and legitimate share in the activities of the Indian National Congress. And if there is one thing more than another of which it can be a conclusive evidence, even on the confession of my friends on the other side, it is that whatever the past and whatever his acts, his present and immediate intention with which alone you are concerned is that he is going to engage himself and to take part in an institution and organisation whose creed is both non-violence and truth. That part, therefore, is entirely known to them; and being known to them they cannot venture upon any evidence on the only issue before the House.

As I said, in 1931, it was said that Krishna Das reported that his inclinations were towards the *Yugantar* party: in fact, that, by itself, furnishes no evidence against Subhas ; all that the letter states is that, from the information that he received Subhas was so inclined. Five years have passed since then, four of which he has passed in exile. All his declarations have been opened, and, if any correspondence had taken place, it could not have escaped the vigilance of Government. Therefore, mark you, since the year 1931, there is not an iota of evidence placed before this House contrary to the avowed intention to which I have referred, which he has publicly stated and to which I am here to testify, that the man is coming here with any definite intention which could justify executive action of this kind. To exile a man for all time for fear of a revolution means this: that we cannot reorganise the masses of this country. If revolution means that we are going to reorganise the masses of this country, it seems from the speeches of the Honourable Mr. Hallett and the Honourable Sir Nripendra Nath Sircar that it is a crime. On the one hand, you say "Your masses are not sufficiently awake: therefore, you cannot govern yourself. You have not the ground, you have not the basis, you have not the foundation for self-government." You pretend and profess that we should prepare ourselves for self-government, and yet all you do, when any man

wants to reach the masses, is to put the police on his trail. And the executive is on his head as far as they can help. If that is the method by which your professions are to be judged, we cannot help thinking that, they are worse than insincere. Every time a man goes about among the masses of the people, in order to teach them their fundamental rights and the methods of future Government, you put your police on his trail. I can give my own recent experience.

Own experience

I went up to my constituency. I visited 75 village centres. Let alone the immense waste of expenditure on police—there were two buses with the deputy superintendent of police and three other police officers, two shorthand writers, two long-hand writers and others. That is bad enough. All I told the policemen was this and they hung down their heads in shame—I said "Instead of running after robbers, dacoits and thieves, has it now become your business to run after patriots, men whom you desire should go among the masses of the people and teach them what their fundamental rights and duties are?" But that is not enough: the degradation does not stop there. In the earlier part of the tour we found these men bringing their own tables and chairs to show that they were superior to the rest of the men in the land. Whenever there was a song sung in the beginning about Homage to the Motherland (*Bande Mataram*), we used to get up and they used to do the same. Afterwards there was change in their demeanour by reason of the orders which they got. They were waiting till the last moment lest they should miss the last word I had to say: and then swiftly they ran away; to that also I have no objection; but when I went further into northern parts they got definite orders that it was a part of their duty at the risk of sacrifice of their service, that they should sit down while the rest of their fellow-countrymen were singing a song paying Homage to their own Motherland.

This is the degradation, this is the moral ruin which this Government have brought about in the name of law and order, in the name of executive action, and in the name of preserving the peace of the country. This Government turns men into beasts by ordering them to act against their country and their countrymen against their better judgment and their natural instincts and spontaneous inclinations.

Sir, that by itself is not enough. You always find that they are afraid of the word "revolution", and they confuse it with a movement of armed force. They are afraid. Why are they afraid of it? If there has to be a revolution in this land before the people are awake to what they themselves desire in their heart of hearts to be the true foundation of democracy, then it is inevitable. Therefore; I support this motion on the ground that it involves the highest principle of civic liberties and the Government have produced no evidence of Subhas Chandra's immediate present intention to engage in any subversive activities with which alone this House is concerned.

OTTAWA TRADE AGREEMENT

26th March 1936.

Sir, it is somewhat refreshing to be reminded by the Honourable the Mover of this motion of the responsibility that lies on this House in the matter of the effect of our conduct on any voting that the House may take on this question. It is almost ironical, considering the way in which responsibility has been discharged by them from time to time—But I may assure him, on behalf of those who think with me, that it is with a sense of responsibility that we commend the step which is contained in the amendment which stands in my name. Not only that; but it is also an important contrast with the somewhat indecisive and vacillating policy as adumbrated in the motion before the House.

Let me begin not with a long historical account of the kind which has been given by the Honourable Sir Muhammad Zafrullah Khan, but with the Agreement itself; so far as the House is concerned, there are only two clauses to which attention has been called—clause 8 to which I shall come towards the end, in dealing with the question of cotton; and clause 14 which runs in this form:

"This Agreement between His Majesty's Government in the United Kingdom and the Government of India shall continue in force until a date six months after notice of denunciation has been given by either party".

Not in the interest of India

Then, there follows a proviso which it is unnecessary to consider, owing to the manner in which the case has been presented, for the appointment of a committee by the Honourable the Mover. I will also mention the fact that when the Agreement was entered into, under what was called stress of circumstances arising out of the Import Tariff Duties Act of 1932, launching a somewhat new policy on the part of the United Kingdom in the matter of trade relationship with other countries, and after reading the account as given by Sir Joseph Bhore of the justification—and taking at least his language which was unequivocal—the only justification for entering into the Agreement which was brought before the House for its confirmation in November, 1932—the way in which the matter was looked at was not so much as to see what would be the effect of the operation of the Agreement in the matter of tariff duties of the United Kingdom on the future trade of India, but, in anticipation and in advance, was hustled almost by an apprehension which was unreal, into entering into an Agreement as to one aspect of which at least there are no two opinions, and on that the evidence is unequivocal. Under clause 14 of the Agreement, it was competent to the United Kingdom to give notice for the termination of this Agreement. The

fact remains, of which sufficient significance has not been understood, that the United Kingdom during the three years and even now does not seek to terminate this Agreement. It may require a considerable amount of argument in any other regard, but, so far as this one outstanding fact is concerned, it requires no argument at all. It proves one thing conclusively, that so far as the United Kingdom is concerned, it is satisfied that it has gained by the Agreement, which it does not wish to terminate. You must, therefore, begin in an examination of this kind—and fortunately I have this advantage that I am not oppressed with an expert having commenced on the other side—there is a layman entirely, to a certain extent better instructed and served, but nonetheless occupying an almost similar position; and the most surprising omission in his speech was the fact, bilateral as that Agreement is in the matter of India's trade, you have not been told why it is that the United Kingdom still desires the continuation of the Agreement and has never suggested that they required either termination or revision. You, therefore, begin with a most fundamental and important fact, and, therefore, that part of it would certainly not require examination, that so far as the United Kingdom is concerned, the figures which have been published show clearly that they stand definitely and clearly to gain by the continuance of the agreement.

Domination of stronger Partners

They are quite satisfied. Therefore, I presume being the shrewd businessmen that they are and looking after their interest, both politically paramount and economically strong, they are not the persons who are likely not to raise a voice if the Agreement in any behalf affected them adversely to the smallest extent. It is that which is the most important back-ground with which to commence; and not in any sense a political back-ground at all. At the time when this Agreement was brought before this House, the

result of the votes, as far as I am able to see and read the speeches, was that the House was unable to come to the conclusion on an issue which was wrongly put, whether the Agreement if entered into would be disadvantageous to the interests of India. Sir, I must enter here an emphatic protest against the manner in which questions of this kind are sought to be dealt with for purposes of Indian trade and its expansion and improvement. The question before the House ought to have been, just as they want us now to enter into an examination after a period of three years, to see how the Agreement would work, it was their obvious duty to have allowed the Tariff Duties Act to work and to see what was its effect on Indian trade before entering into an agreement in this somewhat indecisive and dubious manner. I am, therefore, here first to point out that it was done—not in the interests of India,—and the very denial of it shows, and the denial is made more often than not too assertive, that there is a consciousness or a belief that it should not be dealt with on any political ground whatever but can it ever be denied that in the very term "Imperial Preference," there is and must be involved the domination of the stronger partner to the Agreement? The fact remains that of all the parties at the Imperial Conference the one party that was the weakest, the one party that was the most inferior, so far as its political and economic situation was concerned, was India, and yet, it is said that it will be wrong on our part to point out that the immediate effect was,—you may call it coercion, you may not call it by any stronger term,—that it has not been to the advantage of India, but you are certainly bound to see in it the motives underlying the Agreement from the very manner in which it was rushed through, and the way in which it was brought and the ground on which it was accepted by the House.

Then, Sir, I cannot understand why it was said that we must give it a three years' trial, as if they might as

well say, considering the speech that has been delivered in support of this motion, that perhaps another ten years would not show those tendencies are going to work out. It is really almost an offence to this House, almost a dereliction of its duty on the part of the Government of India that at all events, having entered into the Agreement with an indecisive feeling in their own mind; that even at the end of three years, instead of asking for a Committee, they ought to have got it examined by any expert or by any authority they liked and placed before this House their positive opinion as to what was the effect of this Agreement on India, because they undertook the responsibility of entering upon it, and it is not up to them to say now; "We do not know how it works, there are tendencies which are said to be negative," called in a sense "insurance." It is very much like Sir, the case of a physician who, if he cannot do any good to his patient, often says; "If I had not treated you, you might have been easily worse''. Well, if that is all that the Government of India can say, I think they themselves, on their own showing, have made out a case for the amendment for which we stand for. Sir, it was up to them as a part of their absolute duty to have got it examined by some experts or by some recognised authority. And why did they not do it? I am not one of those who believe that they have not done their duty so far as they themselves and their internal councils were concerned, but I am one of those who believe that a legitimate inference can be drawn from the fact that they are not able to come to this House and say, that while this Agreement has admittedly done good to Great Britain it has also done a proportionate and adequate good to this country. What prevented them from examining the agreement with the two experts who have been sworn in to-day for the purposes of supporting it in this House. You don't need the experts here if the point in issue is you will examine it in future. Therefore, I take it that in their own heart of hearts they believe they have got to

prove the true issue for which they ought to have been prepared and of which the burden lies upon them. If they are not, they stand condemned, and if they are, they stand even more condemned, in that it was their duty to take the House into their unreserved confidence as to the examination of their results. The points which have been touched upon towards the end of the Honourable Mover's speech are those which I propose to deal with shortly myself, but in the commencement, Sir, it is these three important matters to which I wish to call the attention of the House. After that, I wish to call the attention of the House to a Committee which was appointed in the year 1934 for the examination of the working of the Agreement during the period. I am not complaining here, and I will not detain the House with a complaint that that was not brought before the House, though I am here to say that it was their obvious duty to have brought it before this House. I will not detain the House also by reading what appears to be a somewhat dubious conclusion of the Report as signed by the several Members calling themselves the majority, but the clear verdict contained at page 54 of Mr. K. C. Neogy, Sir Abdur Rahim and Mr. B. Sitaramaraju is the one that I wish to read, and I wish to read it for more than one reason, not only because it contains a clear judgment according to their conception, but also because in the light of that opinion, it was the duty of the Government of India not to allow the matter to drift but to take it up immediately there and then. Their conclusions are:

"(1) That the preferences given by the United Kingdom to our agricultural products have not to any extent that matters helped India to recover lost ground. On the other hand, the preference given by us to the United Kingdom's import has adversely affected our foreign market.

(2) The heavy dificiency in our exports, which is the most disquieting feature of the situation, is mainly due to the weakening

of our foreign markets, and the small increase in the exports that there has been in 1933-34 as compared with the previous year, is not such as to re-assure us that India is on the fair way to economic and financial recovery.

(3) Having regard to the economic policies adopted practically by all other countries, trade agreements on the basis of mutual interests seem to be inevitable."

Serving the interests of their masters

I don't want to read their recommendation in detail. This is what was reported to the House on the 30th of August 1934. Yet, what is the excuse, what is the explanation offered for continuing to drift for a period of two years thereafter? For there was nothing certainly in Article 14 requiring them to go on for a period of three years, irrespective of its effects or advantages or otherwise, on India and the sole interests of India, but the fact remains that they were the agents of the Secretary of State, and being the agents of the Secretary of State, their attention was more directed to their masters than to the interests of India to which we are often told we ought to pay unqualified and exclusive attention. I believe, Sir, the boot is on the other leg, for, if in 1934 responsible elected Members, even in that Assembly, of the standing to which I have called attention, came to that conclusion, it was up to the Government then to bring it up, make their own Report upon it. So far as Dr. Meek's and Dr. Matthai's Reports are concerned, I shall have to say a few words later, but the matter was not examined as it ought to have been examined in view of the definite opinion expressed in 1934 by three Members of the Assembly. The matter, Sir, does not rest there. So far as the Federation of Indian Chambers is concerned, so far as the Indian Merchants' Chamber of Bombay is concerned, so far as the Indian Merchants' Chamber of Calcutta is concerned, they have definitely expressed their opinion that the Agreement, on the whole, has not worked for the benefit of India, and a notice of

during the course of the argument and during the course of many of the criticisms which have taken place, that if we give notice of termination, we lose the United Kingdom's good will. Sir, I have been advising business people for a period of some 30 years, and my Honourable friend, Mr. Jinnah, has done that for a further decade. But I have never yet known that if two business men enter into an agreement there is any question of passion or prejudice; if either of them having the right to give notice of termination does so, he loses the good will of the other man. It is a well-known thing, you may have a lease for a period of three years for instance, with a proviso of six months notice of termination, and it is the notice of termination which brings about, or which is the only inducing cause for a better agreement. If you choose to continue to suffer disadavantages and not to give notice, there is no inducement for anybody at all, particularly for the other side who is entirely satisfied with the results. Why should Britain give any notice? Why should Britain revise anything? They have no inducement to do so. My respectful suggestion to the House is that a genuine inference from any trade understanding of matters of this kind is that you are entitled to suppose that the only way to bring about a negotiating mind in those who have a decided advantage is to say, "So far as I am concerned, you have six months' notice, so that we may consider whether other and better terms could not be negotiated between us." Therefore, from the point of view of business I personally fail to see how it can be said, with what face are you going to deal with the other party for the purpose of revision of this agreement? The party that is at an advantage and thinks it beneficial has no reason, whatever, to enter into another agreement: Even if you went there, you would be told, "Why should we?" But if, on the other hand, we say, "We will terminate this Agreement, notice will be given towards the end of April terminating in the month of October," then we have got a real period of six

months, an effective period of six months, within which they must either continue at the end of that term with a better state of relationship between us, or let it be terminated. Having regard to the basic fact that it has worked to the advantage of British, that is the only way in which any man with any business sense would go about this matter if this Agreement is to be revised at all. That brings me to this. According to the opinion of businessmen themslves, in the summary of conclusions they have come to on a detailed examination of the Agreement, a detailed examination of which we are asked now to undertake for the third, fourth, or fifth time—a detailed examination by the Federation of Indian Chambers of Commerce and Industry shows this. I will take by articles a little later, and I wish, as far as possible, to confine myself within the limits of the time that have been imposed upon me:

"The examination of the several commodities in the export trade of India leads one to the following conclusions :

(*a*) In the case of linseed oil, hides and skins, pepper, tobacco, pig lead, in spite of the United Kingdom increasing her imports, she took less from India and the extra market made available was either taken up by the Dominions or foreign countries.

(*b*) In case of rice, oil-seed cake, rice meal and dust, groundnut, pulses, goat skins, the United Kingdom took no doubt more from India but India's exports to other non-Empire countries suffered. Some of these illustrations point out how diversions of trade have taken place.

(*c*) In case of coffee and tobacco, even with a preference, India could not improve her position because of certain factors which are permanent features of these particular articles but were ignored by the Delegation.

In case of a number of commodities as has been pointed out in clause (*a*) above, India lost her ground in the United Kingdom market in spite of a preference and the extra market available in the United Kingdom was taken up by other countries. It will be found that the non-Empire suppliers are neutralizing the 10 per cent. preference by the greater depreciation of their currencies.

The examination of the import trade of India conclusively proves the apprehension held out by the Indian public that India was made to pay at Ottawa a premium to the British manufacturers for their inability to compete with continental manufacturers by making available to them greater share in the import trade of India under the Ottawa scheme of preferences. In practically every line of import trade, the United Kingdom secured either a substantial gain or consolidated her position in several of the important items of imports into India, such as, chemicals and chemical preparations, instruments and apparatus, machinery and mill-work, iron and steel, rubber manufactures, motor cars and cycles. Under all these heads, the United Kingdom secured a substantial advance in her trade with India."

Dominions benefit at India's cost

The conclusion, therefore, is once more reinforced after a period of four years, the conclusion which was reported to this House and ought to have been considered in the month of August, 1934:

"That India's export trade in agricultural produce with the United Kingdom did not show any substantial advance owing to the fact that the British dominions securing similar preference gained a better and stronger footing in the United Kingdom market over India's produce;

That the intense economic nationalism initiated by the United Kingdom in creating an economic block within the Empire has restricted the growth of internationalism of trade instead of encouraging it and forced a number of manufacturing non-Empire countries to resort to import licenses, quota restrictions and exchange control to arrest the passivity of trade, which measures, in case of India, affected her export trade to these non-Empire countries."

It is now almost a common place that, as against three crores of gain, which is sought to be pointed out in the reports of Dr. Matthai, there are twenty-four crores of loss of foreign trade of India. The only explanation that has been vouchsafed is that those countries, in their own interests, in order to balance their own trade, have resorted to this course. The shortest answer to that is

obvious. You are not able to receive from these countries some of their articles, they are entitled not to receive the import of your goods, and that is the reason why our trade with non-Empire countries has suffered. So far as they are concerned, they would not take any of our raw products because we have, as a result of the preference, refused to take their finished goods. Therefore, the very reason given is sufficient to show that there is every advantage, so far as the Agreement is concerned, in its being now terminated. As regards the tendencies, I wish to point out that it is one of those nebulous things which it is very difficult to examine the value of. But, is it because the problem is difficult, therefore, we are to be launched into a region of speculation, or are we to test it upon the touchstone of the opinion of the interests affected, not an opinion on an issue of a purely political character, not an opinion on a matter in which they do not individually participate, either by way of profit or by way of loss, but an opinion, the touchstone, whether they stand to gain or stand to lose. I am told that I am oppressed by the opinions of merchants as opposed to the expert, but let me tell him that, whereas his opinion puts him to no loss, except a speech in this House, the opinion of those who suffer or gain is the real and better opinion by which we would choose to go. In so far as the articles to which attention has been called are concerned, I will deal with only linseed and cotton. As to linseed the position is extremely simple :

> "It was generally agreed in 1932 that linseed was a crop which was most likely to profit from a preferential treatment. The trade figures for 1933 and 1934 show a most revolutionary change in the imports of linseed into the United Kingdom. During these two years, India supplied much larger quantities of linseed than Argentine, which has during the post war period been the chief supplier to United Kingdom. This change seems to have been chiefly due to a shortage of crops and an increase in price of the Argentine linseed. On account of the shortage of crops in Argentine, the demand for Indian linseed increased not only in the United Kingdom but in the entire world market."

Therefore, so far as this is concerned, the explanation is obvious and requires no investigation. So far as cotton is concerned, Article 8 clearly shows that there is no obligation. This is a pious wish' which they may or may not fulfil. To call it an Agreement, I submit, is to use a wrong phrase altogether. Article 8 says :

"His Majesty's Government in the United Kingdom undertake that they will co-operate in any practicable scheme that may be agreed between the manufacturing, trading and producing interests in the United Kingdom and India for promoting, whether by research, propaganda or improved marketing, the greater use of Indian cotton in the United Kingdom."

Denounce the Agreement

If a clever man, and a hard headed lawyer that he was at all events before he came here and who still has that training in his mind, calls this an agreement, I would certainly tell him that he ought to reconsider the meaning of the word 'agreement'. An agreement which involves no obligation, the non-fulfilment of which does not in the least degree expose him to any loss is, according to my humble understanding, no agreement at all.

I have only one word more to say on the question of tea. So far as tea is concerned, the countries affected by the Agreement are Java, Ceylon and India and I think even an expert business man would not be able to separate the effect of the Agreement and say what the effect would have been if the Agreement had not been made. India is a debtor country and Britain takes at least 40 crores as pointed out by the Honourable the Finance Member for invisible services—they are very invisible indeed ! And we pay in the shape of our raw products. It is unthinkable that India, if she had stood on her own ground, could have been rushed into this Agreement as she has been. It always pays a

creditor to keep the debtor a solvent country, as was proved in the case of Germany after the Treaty of Versailles. It is a matter of common knowledge that you cannot go on taking gold for the purpose of balancing your trade. A time must arrive when you must take other products, *for gold cannot be eaten.* You can only preserve it for the purpose of backing your currency. I, therefore, submit that both in the initial stages in 1934 and in the year 1936, there is a unanimity of opinion, which the Government of India have not dared to controvert, in favour of an immediate notice of the denunciation of this Agreement.

THE INDIAN COMPANIES AMENDMENT BILL

15th April 1936.

Mr. President, I am not aware of any convention requiring me not to speak on the motion before the House now, inasmuch as I find my name included among those recommended for the Select Committee, but in anything that I say I wish to make it quite clear that it is not my desire to commit myself irrevocably on any of the issues which will come up before the Committee, and I think it is right, unless I am bound by any convention to the contrary, that on a matter of this importance, on a Bill in which all sides of the House are interested for the progress of the industrial development of this country, all of us should pool our respective experiences and knowledge in order to make it as efficient as possible. And it is only in that spirit that I have agreed to serve on the Committee and I make the few observations that I propose to make.

Managing Agents

There are three or four points on which I think it is necessary that the attention of the House should be

directed on this particular occasion. I will, first and foremost, take up the question of the much abused institution of managing agencies of the joint stock companies existing in this country. Without intending to travel over the ground that the Leader of the House has done, I am free to say, that so far as India is concerned,—at all events, the bulk of the country is concerned,—the managing agency institution has served the country fairly well, and it must not be judged by instances where undoubtedly they have been more or less sponging institutions. There are safeguards which I wish to indicate so as to avoid this result, while maintaining, wherever the shareholders so desire, the continuation and maintenance of the managing agency system. The promotion of business in this country, naturally, has held out to those, who commenced it, an inducement both in their own interests and otherwise first to prospect business and second, to find, at all events, a minimum capital, and, thirdly, what is more important, finding money for working capital; with the knowledge of banking that one possesses in this land, no company is able to raise any monies unless it is backed by the guarantee of the members of the managing agency, and, even in that behalf, it is becoming more and more difficult, because, many of the managing agencies, being themselves private limited companies, and, of late years, I have found a difficulty that many private limited companies, acting as the agents of what I might call the manufacturing or the producing companies, have found themselves in great difficulties in the matter of backing their credit. For instance, it is easy to form a company, and, notwithstanding the name of the Honourable the Baronet from Bombay, the credit of the company that he may form for the purpose of the managing agency is entirely different to the credit that is personal to himself, for the managing agency company, more often than not, has a very small and limited nominal capital. The result is that the only guarantee given by private limited company, which is the agency

company, does not carry the same force by way of guarantee as has hitherto been done by managing agents, being private firms, and, therefore, all their resources are at the back of the guarantee and are liable for its enforcement and fulfilment. I am, therefore, in agreement with the fact that the utter condemnation or cessation of the managing agency system would be a set back to Indian industries. At the same time, there are two features of that to which I wish to call attention. The first to which I wish to call attention is a matter that has been somewhat common in the formation of companies in earlier days where the appointment of the managing agency system is to be found as one of the clauses in the memorandum of association, a subject-matter that has led to a considerable amount of litigation and difficulty. It has been argued on the one hand that that clause is unchangeable in that it is only particular clauses and provisions which, under the existing Act, section 12, are alterable at all, and it has been strenuously argued in many Courts of which I have knowledge—and it is to be found in the law reports—that managing agents appointed by a provision in the memorandum of association are both irremovable and also argued, to their disadvantage, that the terms of remuneration are also equally unalterable, and I hope and trust that some place will be found to incorporate some of the decisions on this basis that, inasmuch as the provisions for managing agencies which existed in the memorandum are not *per se* necessary, for that purpose they should be treated as they exist as if they were only matters provided for in the articles, so as to enable the shareholders of the company to alter them from time to time. It is a matter that requires particular attention, for the reason that it has been a matter that has worked both ways,—remunerative to those who were appointed agents and at the same time there being the impossibility of remunerating them as the business of the company expands.

Basis of their remuneration

The next question to which I wish to call attention is the one that concerns the basis of remuneration of managing agents. It would be profitable if the general opinion tended to provide that the basis of remuneration shall be a percentage on the net profits of the company together with such further allowances for office management as may be required or considered to be adequate, but in no case should the remuneration of the managing agents be based on what was called the outturn. Most of the earlier agency companies have these provisions; whether the company prospered or it did not, it was on the manufactured products of the company and its value that the agency commission has frequently been so based that, while the company possibly was losing, the managing agents were constantly drawing large sums of money. It is, therefore, essential to bear in mind that in future the fortunes of managing agents should be coupled with the fortunes of the companies, and the best way and the easiest way to do that is to provide that, so far as their remuneration is concerned, excepting the question of office maintenance, it should be based on no other basis than the net profits earned by the company. This is a matter that requires very serious attention, because in most of the companies, this provision exists, and, if it were necessary, after a period, for which adequate allowances can be made, even where it exists to-day, some way must be found out in order that the future basis of remuneration shall only be the net profits of the company. As regards its duration, so many questions have arisen from time to time that it is necessary to make a provision having regard to the circumstances in which the world finds itself to-day. Since the year 1910, by the unfortunate results of many companies otherwise believed to be sound and by the floatation of many unsound companies, the credit, so far as the industrial world and the

formation of companies have been concerned, has been rudely shocked. It is somewhat of an unfortunate coincidence that it is during that period that we have it from the failure of the Specie Bank right down to Strause & Co., Ltd., which was an English company operating in India, and those who have any experience of the business world in Bombay realise that the change of law in order to make the interests of the shareholders safe, without unduly fettering the working of the business by managing agents, is a necessary desideratum and it should be achieved as soon as it can be achieved. As regards the duration, Sir, questions have been raised in Courts of law where numerous cases were raised, and the last of them, and which is perhaps known to the Honourable the Leader of the House, was the case of Morarjee Goculdas and Co., and managing agents of the Sholapur Mills, one of the most successful textile concerns in the whole of India if not at all events in Western India. The provision there made was that Morarjee Goculdas and Co., or any other member for the time being of the said company, should be the managing agents of the said company. The difficulty of perpetuation in this matter is undoubtedly one which must be avoided, for it may easily happen that in a short period of time nothing but the label remains. People and the shareholders do not realise that Morarjee Goculdas and Co., which, to their mind, concretely represent either the founder or his partner or perhaps a nominee of his during his lifetime, but, in due course of time, it is purely the label that remains and the entire substratum of that firm disappears.

Period of their duration

Now, that should undoubtedly be avoided, and the construction placed by one of the learned Judges of the Bombay High Court was reasonable enough following an early decision of the Bombay High Court that Morarjee Goculdas and Co. or any other company for that matter

should be construed to mean nothing more than this that all the partners of the company have power in case of retirement, death, etc., to appoint nominees to fill up their places but as soon as the last survivor of partnership is gone, that company should not be able to perpetuate itself as claiming the right to continue to be managing agents of the company. This has been sought to be made in the proposed Bill by a twenty-year period of duration. Whether that is advisable or whether any alternative form which I suggest is advisable is a matter that should I think, be considered, for indeed many of the managing agents claim and might reasonably claim that so far as those men who were responsible for the promotion of the company and on whose credit shares were subscribed and by whose efforts the company became successful, so long as these or any of them remain, it should not be a matter of duration by a number of years as duration by the life of the survivor of those who made the company possible at all. I suggest that because this is a question that is likely to arise that this objection would exist. Next, Sir, as regards the provision concerning managing agents that now exist, I ask that attention should be called to another very important matter. It is suggested that whatever the existing period by way of agreement may be, you should provide for a period of some twenty years at the end of which the shareholders should be free to appoint managing agents, because it should be remembered that though perpetuation may not be possible in the sense of the once-for-all managing agents, having got appointed themselves, continuing as they do now, perpetuation by the vote of the dominant majority will always be possible. I do not suggest that this is a matter which should necessarily be avoided, but it is a matter that will be considered that by reason of the many forms which are very familiar holding a dominant voice, not indeed alone through either being shareholders or through being creditors or indirectly but through one or two other ways which have been described, is possible, but

that certainly is much more healthy, in that, if the matter comes before the company at the end of over twenty years, then they should have an undetermined period of a lease of life, for indeed, when it goes out, even though it may be a minority, it is always easy to a minority, or where affairs are so managed as for it to be worth while, notwithstanding what I may call it being a minority that cannot be affected, continuing to hold, if the agents continue, on terms which they feel are not advisable or to their interests. It is in that way that the future of the managing agents lies, but not in its extinction or abolition, but to provide for the duration of the lives of those who have been managing agents, and terminate in that way or by a period of time.

There is also another provision which can be rendered practically impossible,—the operation of the nomination exercised by the managing agents in the holding of shares, for in most cases they probably will hold a little more than half the total number of shares. If we provide for the appointment of managing agents, so far as majorities are concerned it should not be an ordinary majority; I think it is a precaution which will probably serve the purpose but one thing must be done, that it should not be part of the memorandum of association so that if that company feels it should always be a subject-matter which can be provided for in the statute as being a part of the articles of association so that the votes of the member shall be effective when the event arises when the matter is to be determined as regards the duration and the terms of remuneration and other matters relating to the managing agency.

Directors—Indemnity Clause

There is one matter that I wish to refer as regards Directors. Indeed I find myself in entire agreement with the institution of Directorship as a necessity, particularly where managing agents have such wide and extensive powers. I also wish to say here that to the extent to which it is

possible, every effort should be made not to pack the Board of Directors by more or less those who are nominees of the managing agents. That has worked to the detriment as and when companies with apparently high credit come to be wound up, it works to the disadvantage both of the lending public as well as the shareholders. There are two clauses with reference to Directors to which I wish to make some reference. First is what is called the indemnity clause. While I do not approve for the moment the entire elimination of that clause, I am not in favour of the clause which now exists. In England, illustrated by the Equitable Insurance Case run by Mr. Beevan, and, in India, by numerous cases of companies which I do not wish to name because some of their Directors might still be affected, the fact has been borne in upon us that that indemnity clause practically makes Directors irresponsible for the consequences of their own personal neglect. I know of a company in Bombay, it was a steamship company which was floated with a capital of ten crores, out of which seventy-five lakhs were paid at the end of six months being wound up. It went into liquidation and the liquidator got five lakhs of rupees in cash and yet, Sir, after months and months of legal difficulties and battles, we found that practically every Director escaped the consequences which they justly deserved for mismanagement and neglect by reason of what was called the indemnity clause. It was at that very moment when the judgment of Mr. Justice Romer since confirmed in England by the Court of Appeal came to the aid of the Directors. I, therefore, say that so far as indemnity clause is concerned, the terms in which it now exists should be eliminated. Some provision should be made for *bona fide* errors of judgment on the part of the Directors in proper cases. I know that there is a provision which is by way of qualification to the misfeasance section of the existing Companies Act where Courts of law dealing with misfeasance matter are in a position to exonerate the Directors from liability provided they acted with reasonable *bona fide*. But I presume that that may not go far enough. Either a place

must be found in that section by way of a proviso or if this clause is to be omitted altogether from the articles of every company, some provision should be made either by that proviso or with an enabling article when the limitation which I have suggested should be brought in. For I feel that the indemnity clause hitherto is such that no shareholder public ever understood the effect of it. It has had the effect of Directors coming and saying "during the proceedings something was brought before us by the management and we passed it. We were entitled to rely—as it was mentioned in the House of Lords in *re* : Dovay *versus* Cordey—on the integrity and skill and knowledge of our executive and we are not responsible for any loss or damage". I submit that such a thing must be rendered impossible so far as legislation can render it impossible. Otherwise directorship has no meaning except for making sitting fees, in one day probably they dispose of 20 companies and thus earn fat fees. A matter of that kind must certainly be rendered impossible.

Borrowing Powers of Directors

There is one more matter relating to the borrowing powers which I wish to refer to. It is now suggested that the lending to Directors or lending to companies in which the same Directors or managing agents are also Directors and managing agents should be rendered at least as difficult as possible, if not impossible. My experience in the winding up of many companies in Bombay, Ahmedabad and outside showed me that companies which had something like 50 lakhs reserve—I am thinking at least three of them—when they went into liquidation, the borrowers being the managing agents or one or the other of the directors were unable to put in a single pie, so that on paper their shares so far as the public were concerned were three or four times their nominal value, but when it came to actual winding up, it had no value at all. There are two ways in which this question

could be tackled. First there must be restraint on the borrowing powers of directors and the borrowing should be purely and *bona fide* required for the purpose of the company. For indeed, it has happened in the past to my knowledge that people have treated companies as so many banks and companies, have received deposits far far beyond their requirements and having got enormous deposits, they found it very difficult to reinvest them. The object at the back of the mind is that when there is money in the hands of the company, there is greater facility for the Board of Directors or the Managing Agents to use them for purposes *bona fide* or otherwise. This is the case with regard to a company which I know of and which is under liquidation and as the matter is *sub-judice*, I do not wish to mention its name. The fact remains that there must be some restraint on the borrowing powers of the directors, restraint not so much as to affect the lender, for I am aware of the doctrine of what is called "indoor management" which does not affect the lender at all, but at the same time a salutary check of this kind would render a director liable for loss caused to the company by borrowing more than is required and lending it on securities like those which I have already suggested. I, therefore, suggest that there are three matters in this connection which it is necessary to remember, firstly the limitation of borrowing powers—this is very essential and very important, secondly lending by one company to another which is not merely under the same managing agents, but substantially the same managing agency or substantially the same board of directors, because it is not merely the managing agents who try to prop up one of their failing companies by the credit of one of their stronger companies, of which indiscretions were found in the Bombay High Court between 1910-1914 and those lessons will never be forgotten and indeed must be utilised for the purpose. Therefore, I suggest that whereas on the one hand the lending public may not be concerned and in fact are not concerned with the indoor management of the company, it is therefore in

the restriction on the indoor management of the company itself and the consequent liability of the directors and managing agents as borrowers that we can see the real need. For undoubtedly it is true that so far as the doctrine of indoor management is concerned, it is essential and necessary to maintain the restriction without which dealings by outsiders with companies will be difficult if not impossible.

Accounts of Companies

One thing more I should like to say with reference to the accounts of companies. As to that the law cannot be too careful and cannot be too scrupulous in the enforcement of the keeping of accounts and the obligation of the auditors to the companies. For I have often found that you get a certificate in terms of the section, a certificate which leads even a lawyer to guess as to what was the truth behind that certificate. I have read many certificates and I have given opinions on many certificates. In fact many an auditor has asked me for an opinion as to which is the form of certificate that would protect him, knowing as he did, the internal affairs of the company of which he did not approve. I am, therefore, here to tell you, Sir, and the House that so far as the keeping of accounts and so far as the watchfulness by the auditor is concerned, the auditor should have in one form or other an independent obligation to the shareholders and the auditor should not feel as if he is a nominee or an employee, either of the managing agents or of the board of directors. In some of the cases, perhaps the company becomes concrete to the auditors only in the shape of either the Board of Directors or in the personnel of the Managing Agents—an idea which if you cannot make a concrete thing in one way, you must make a concrete thing in the other way. I know, as a matter of law, auditors are independently liable and in fact in the Equitable Insurance Company case, the accountants and auditors were sued along with the directors outside.

But in many of these cases it is not sufficiently clearly perceived that they owe a duty to the shareholders. In fact, they ought to be the watch-dogs on behalf of shareholders as against,—if that expression is pardonable—the Managing Agents and the Board of Directors.

The shareholders generally appoint them. Anyway, I have hitherto seen that sufficient care is not taken by the shareholders though recently I think they are more awake and more alert than before. But I can think of a period of some 30 years of professional life, in which, more often than not, the office of the auditors was more a matter in the gift of the Board of Directors or the Managing Agents.

In one company that I remember, a cement company, it was found during the course of liquidation that they had no books by which to find out how much had been paid by way of allotment of shares or by way of the first and second calls. There is one other matter in this connection which it is necessary to remember, and that is this, that except the commission which must be fixed in the Act, no shares should be issued at the discount at all. For, in two of the most important companies that came up for liquidation, a large amount of the money went into the pockets of either the Managing Agents or the promoters, either in their own names or in the names of their nominees, and the actual capital was found to be very much shorter than under the law ought to have been found to exist. And I think the healthy principle enunciated in the earlier Acts and maintained in this one that no shares may be issued at a discount, should be maintained. You may add a proviso to this effect as to what commission or brokerage or by way of underwriting or otherwise may be allowed. But the maximum of that I think it will be a healthy thing to provide for in the Act itself rather than leave it to the exigencies, because the weaker the company the greater the commission and the less equivalent of share money that comes into the

till. It is, therefore, necessary that so far as these three things are concerned we ought to be careful in the interest of business, in the interest of encouraging the shy capital once more acquiring and investing courage, because today the cause of the failure of companies is the misfeasance, and by the causes which have been described, the progress and the growth of companies formed for the purpose of smaller industries has now almost come to a standstill. I am confining my attention to those important points of view for this reason that those are the principal matters in which you cannot be too careful.

Mushroom Companies

As regards mushroom companies there is only one particular point of view that I have come across which I wish to state. In addition to the provision suggested with reference to, at all events, the prevention as far as possible or continuation of mushroom companies, there is one provision about winding up to which I wish to call attention. In what is called the just and equitable clause by way of powers given to the Courts for the purpose of winding up the companies, the English decisions go a long way towards maintaining the mushroom companies. The English decisions show that even though the company shows continuous years of loss it is no legitimate ground under the just and equitable clause for the purpose of winding up. And the decisions have shown that you have got to show that what is called the substratum of the company has gone before you are in a position to get the intervention of the Court. I ask, Sir, that with a view to prevent the further frittering away of companies of doubtful value either in integrity or in character, some larger discretion should be provided for under the just and equitable clause than the one which now exists. A company might continue to show losses over a period of years but so long as the substratum of the company is not gone they should continue. So that there are judges

who have held that out of a subscribed and paid-up capital (say) of a crore, so long as 20 lakhs are still available they should be allowed to function. And I have found by actual experience that it will be much better to save the remaining 20 lakhs than allow the company to wind up, so that at all events you may arrest the continuous growing losses of the company. For indeed the majority of shareholders are found to say, "I have already lost 75 or 80. Let me see whether these managing Agents are not going to be wiser and again produce 100 for the 20". It is that sort of for lorn hope, what is called the losing speculators' mind, with which many of these companies continue to exist. It is, therefore, necessary that some provision should be made towards the end of the section dealing with what is called the just and equitable clause with reference to the powers of the Court in the winding up of companies which are continually losing in the business of their undertaking.

These are some of the points that must require the attention of the Select Committee when it meets, and I have only indicated them in the hope and in the belief that our minds must go back to our past experience and that as it is not uncommon in some parts of the House to quote poetry I may wind up by saying that:

> "Men may rise
> From the stepping stones of their dead selves
> To higher things."

STATEMENT ON RULING OF CHAIR

4th September 1936.

Mr. President, had I any intimation that you intended to make any statement with reference to the incidents which occurred towards the close of the sitting of this House on the 2nd instant, I would have been in my seat yesterday to say what I had to say with reference to

the opportunity of pointing out that even while the judgment of a tribunal may be enforced against a person it does not involve the privation of his personal liberty of judgment to differ from that tribunal and to express that difference in the most unmistakable language. There is, therefore, a real distinction between the obedience to the ruling, whatever it may be and accepting its correctness, a distinction which I have no doubt, with your long judicial experience, you will easily appreciate and understand. It is not merely a matter of toleration but it is a matter of appreciating that while one's judgment one has a right to maintain to be right, another individual has an equal right and privilege to differ from it and to express it in his conduct. You have been pleased to state that it is not the concern of the Chair whether any group of individuals remain in the House during any particular debate and to that extent your wide experience ought to show you that in all public assemblies of this kind a walk-out is a method, a well-known method of active protest against what they believe to have been wrong conduct not necessarily of the Chair but of the incidents taken as a whole. Our conduct was not intended to express any personal want of confidence in you as you are well aware how that matter stands but undoubtedly our conduct was intended to express an active protest at the incidents taken as a whole, particularly of the conduct of the Government in the matter of that motion as well as undoubtedly to express a disappointment according to us of the ruling as given by you, for it had the effect, according to our conception, of preventing a defeat of a measure on that occasion. It is in that spirit and in that spirit alone that we have dared to take the step we did take spontaneously supported by the integral part being nearly the majority of this House. I am also aware that on many occasions of this kind men in your position have even come to the conclusion that the House could not continue its sittings any longer in that it was not sufficiently well constituted. It was for you to exercise that privilege

or not according to your discretion but I would even venture to invite an opinion that the occasion demanded that having regard to what occurred, the House was not representatively constituted, to use the language of many of the rulings of the House of Commons and that the matter could not have gone in the manner in which it dragged its course for some 15 minutes thereafter. In order to enable you to appreciate the position that we took up, it is necessary to remember and appreciate the events that took place as a whole. It is not in us to ask you to come to a particular judgment but it is undoubtedly in us to influence you, to advise you, and to argue before you, so that you may come to a right judgment in all public matters. It must be remembered, therefore, what was the occasion. It was what was described as an adjournment motion, and in the very nature of the rules of this House it can only be raised on a matter of urgent public importance of a definite character, and in our view there can hardly be any difference once a motion of this kind is admitted, because it is common ground and can only be admitted if it is of public importance. In order, therefore, that your judgment may be influenced on that occasion, it is somewhat difficult for you at all events to appreciate the degree of importance of any particular motion for the very rules require and involve that before it can be allowed it shall and must be a matter of public importance. Nonetheless, the greater the importance of the matter as you may conceive it, the greater the care required to regulate the debate in such a manner that the purpose of it, at all events one of the most important purposes of it may not be defeated by any conduct either of a group or of any individual Member of this group. It is your bounden duty to see, having regard to the very importance of the matter, that the House shall record its opinion, at all events shall have a reasonable opportunity of so doing, and it is all the more urgent for that reason. . . .

Censure—a deterrent to irresponsible Government

You may perhaps remember—and I have studied the matter with care since the incident occurred—that matters of urgent public importance can be raised even in the Assemblies of those countries where they are self-governing, and you cannot forget that a censure of Government for an act or omission which we have a right to conceive to be wrong is a great instrument of value, both in its public aspect as well as in the language which was used during the discussion of the last two days as a deterrent at all events to any irresponsible and irresponsive Government. It is one of those valued rights which is expressly conferred upon this House and all the more to be cherished, because there are other methods of expressing disapproval of the measures of Government where the Opposition is the alternative Government. There at all events their appeal to the country results in the displacement of those who have been guilty of those wrongs. In this land, where we are not yet in that position, you must appreciate the nature of an adjournment motion before it can be ever allowed to be dealt with in the manner in which as it accidentally happened that day. It must be remembered that for that very reason a limited time is allowed for the motion between four or any earlier hour up to six. It must also be remembered that the Chair has no discretion in allowing any Member to address the House for more than the space of fifteen minutes. It is also a matter of common sense and I hope it is clearly apparent to everybody in this House that on an occasion like this, and having regard to the limitations of time, if every Member who wanted to address the House occupies the allotted time, not more than seven, barely eight could address the House, unless the only object of a motion like this is that it shall be talked out. All those considerations were present to us, as they must be present to you and as they ought to be present to those who are opposed to us and it cannot be complained on their part

that some one or the other of them had not an opportunity to address the House on a matter of importance. It gives me great pleasure to note, Sir, in the statement that you made that you called the attention of the Members of the Government that they should rise at an early stage if they have to make out any case because after all every case of this kind involves or at all events in most cases of this kind involve some form of displeasure or censure upon the Government. All that you can do is to give the opportunity which the law has given but although you may take the horse to the water, you cannot make him drink. If those who have any answer to make do not care to get up at an earlier stage, their dereliction of duty cannot be an excuse, as it happened, for higher right or privilege. It was their obvious duty if they had any case to make. Undoubtedly it is up to you, when many Members of the House wish to address the House on an occasion of this kind, that those only will catch your eye who, rightly according to you, will throw a light on the question under debate. That privilege they have, but if I am to understand by that rule that any Member of this House, because he happens to be on the Treasury Branch—an expression that is sometimes used here, but it is undoubtedly our treasury that is in their possession—imagines that he enjoys any higher privilege by reason of that position, I think it is due to you and to your position that you should make that clear at the very earliest possible opportunity. For how can it be? When a Member moves a motion for adjournment, it is intended to call for an answer. The charge is laid, the reasons are given, the Members of Government sit in their places watching the running down of sand in the hope that the sands will so run out that then, at all events, they will be able to go out of this House and say to themselves for one day at all events we have escaped your censure. That certainly cannot be in any sense of the term an attitude that ought to be encouraged or an attitude that can be regarded as right. Even on

this occasion, by the time my Honourable friend, Sir Muhammed Zafrullah, got up to speak, nine Members had already addressed the House.

Mr. President (The Honourable Sir Abdur Rahim): The Chair made it quite clear in its statement that it did not desire that its ruling should be criticised on this occasion. ("Hear, hear" from the Official Benches.)

Mr. Bhulabhai J. Desai: While I recognise the pleasure of those who enjoyed this interruption.

An Honourable Member from the Official Benches: Is it an interruption?

Mr. Bhulabhai J. Desai: It was not my desire to criticise it.

Mr. President (The Honourable Sir Abdur Rahim). The Chair wanted to make that quite clear.

Another Judgment Possible

I will make that again clear. I thought I had made it amply clear at the very commencement of the observations that I submitted. It is permissible to me or to anyone to say, "another judgment was possible," a remark which does not at all involve any reflection on the judgment arrived at by you or by any other tribunal, however eminent. I, therefore, Sir, will only say one word and will pass on to a further consideration which I have got to place before you. I thought, Sir, I ought not omit to make the statement that six Members had already spoken against this motion and three in favour. It is also a fact, which I think I am entitled to mention without questioning your judgment, that it required little more than a mere suggestion, it required almost a pressing request before the Member in charge would rise from his seat, and in fact his grievance was that he would not get up to reply because only two

Members from the Congress Benches had addressed the House. I fail to understand either its meaning, its purpose or its justification, for he ought to have known, as I pointed out before, that there are at the most eight speakers available if each one of them speaks for fifteen minutes.

Mr. F. E. James (Madras : European) : Why not bring in a no-confidence motion ?

"Lie in the Soul"

And if, therefore, men, who have no defence to make, get up here constantly, talking about their interests in this land but who are always wanting to get something out of it, if two of them get up here and called the attack of the Congress vitriolic, there was no reason why the Member of Government did not get up. If they had got up, I have no doubt that they would have caught your eye earlier than others, but they got the protection from their friends. Sir, I have no objection to any Member of the House entertaining any opinion or even expressing it in any language he likes but he may not say that on a proper examination of the Rules of this House, a proper examination of the events as they have occurred, any other man may not entertain, as honestly and as earnestly, a different opinion of their conduct. I quite agree. I was pleased to note in your statement that the Chair is not concerned with the opposition between two parts of the House nor with the motives which prompt the Parties or an individual. I quite agree that, while the Chair may not impute motives to any Member or a Group, the Chair is human enough to understand the obvious consequences of conduct either of men or of Groups. While, therefore, you may not impute motives, you cannot fail to take note of the object and purpose of the conduct of men, otherwise we should have been in vain in an Assembly of this kind if we did not exercise our judgment and our common sense as to the conduct of men and the purpose of the motives that lie behind it.

In that sense, Sir, the object of the intervention of the Finance Member was perfectly obvious. Its object was obvious and if any justification is required, I have had the advantage of a calm consideration of reading his speech in print. In your statement you say—and say it rightly—and I accept your judgment upon it that Sir Muhammad Zafrullah had replied to the debate as it had gone so far. What more there was to be done? It was quarter to six. If Sir Muhammad Zafrullah had replied to the debate as far as it had gone and, knowing that there was two hours' limit for discussion, it was inevitable that the intervention of any other person could only have been intended for an obvious purpose. Nonetheless, I have had the advantage of reading that speech: I will not comment on it on this occasion. I will only say this that if ever there was a doubt as to the purpose of that intervention that doubt has now entirely been dispelled by the substance of his speech. There is nothing added to the matter by way of reply on the motion before the House and he had the cold satisfaction of bringing certain matters to which I will not refer now, but I will ask the Government to remember that the lie in the soul will merit its own punishment and it will not be long in coming if this is the kind of method by which they are going to carry on the business of this House. We feel that, while we respect your judgment, we are not bound to agree with it and we feel that we have done right by ourselves, we have done right by our conscience and we have done right by those who look to us for protection.

INDIAN COMPANIES BILL

28th September, 1936.

I do not rise to indict the Managing Agents in their personnel or in their system, for that cannot be supposed to be the underlying motive of the amendment that is

before the House. I also realize that I speak under a sense of strain by reason of the position to which Government have been driven by what they believe to be the effect of an amendment of this character on the industries of this country. Nonetheless, speaking as an intelligent shareholder and also speaking as a man who has not to rely either on the Old Testament or the New, and relying largely on personal experience during a period extending over 30 years of the industrial life of more than one city in India, I owe it to the House and to myself that the House should calmly consider the issue before it, for it has been presented as if it belonged to one of two extremes. I wish to tell and assure my Honourable friends who happen to be either Managing Agents or their advocates that I yield to none in my respect for many of them. But when you say a thing is not an unmixed evil, what you really mean is, and I think that is the better way of expressing it, that it is also not an unmixed good, and where you are faced with a situation of this character, it is perfectly futile to think that you have met an argument by merely stating the extreme position and destroying it. These words are important to be borne in mind in order that it may not appear, so far as I am concerned and those who think with me are concerned, that there is any degree of hostility against any method of management of business in this country which makes for an all-round progress. While you may regard the smallest encroachment on what you possess as a hostile mood, it is only those who so regard it, who think so, for if you believe that any encroachment on what now exists is an expression of hostility, you are bespeaking more your own mind than my own. The position with which we are faced is this, and I should like once more even at the risk of repetition to read the motion before the House, in order that some of the misinterpretations, most of them unconscious, and some of them not warranted, may not remain during the remaining course of the discussion. The amendment says:

"And shall cease to hold office any time after five years from the commencement of the said Act, if the Company has by resolution passed at a general meeting decided to terminate his services, provided that no such resolution shall be passed unless thirty years have elapsed since the Managing Agent or his predecessor first occupied such office."

It does not require very much of legal knowledge to understand that the term of thirty years, which is spoken of in the amendment as appertaining to the Managing Agent or his predecessor, must of necessity mean the present Managing Agent or his predecessor from whom he has derived his title. Its meaning cannot be a succession of detached or unattached men who have merely occupied the office from time to time, so that we may clear the ground by understanding the true import—to whom the 30 years period applies,—and so that it may not be said that the man whom you are driving out is a man who had only two years as a Managing Agent, inasmuch as other persons uuconnected with him have served for the previous 28 years. It can and must only mean in the context that it is the present Managing Agent having derived his title from his predecessor that has had a period of 30 years, in order, if you like to say so, to provide for his risks or to compensate him for all the services that he has rendered. With that premise it is more easy to understand the amendment before the House.

Managing Agency of Service or Profit ?

I am very much indebted for the frank manner in which my Honourable friend, Sir Cowasji Jehangir, has addressed this House. At all events, he has helped me to understand his two propositions being accepted by the Managing Agents and their supporters; first that so far as any remuneration is based on the basis of production, the sooner its goes the better, and the second he said is that the protection extended by the Legislature has served to extend the life of many an industry the members of which were presided over by my Honourable friend, Sir Homi Mody, for many years past.

If he had only taken up the managing agency of service instead of the managing agency of profit, I might have understood the analogy that he gave and the advice he administered. I am not going to make him the offer that my friend, Mr. Satyamurti, made to change places, for I do not propose to do it. I feel it infinitely higher to stand on a managing agency of service than on piling up the gains. Therefore, there is no question of exchange. So far as we are concerned, we stand on the platform of service and shall do so to the best of our ability. Having cleared the ground, I wish to point out that the manner in which we submit this amendment is of an extremely modest character. For it is said, what is the magic in the 30 years which the amendment speaks of. May I ask, Sir, whether there is any greater magic spell in the 20 years which are prescribed for fresh managing agencies to come? I understand that to involve this important statement of consequences and important statement of gains and losses. If for the future the Managing Agent has 20 years period of time to serve or to earn, whichever way you look at it, taking the good years with the bad and taking the lean with the fat and also making allowances for the risk that he runs and the intelligence he brings to bear upon it, he has a sufficient period of time according to the opinion of this House as it appears that there is a concensus of opinion on that basis. Why is it that it is said that a 30 years period has any less sense, if not more magic. If we understand and the House understands that the Legislature in its wisdom thinks that a period of 20 years is sufficient in order to induce a new managing agent to undertake a new business, with all its risks, with all its services, with all its financial assistance, then why is it wrong to say that a Managing Agent and his predecessor from whom he has derived his title, who have all of them in common enjoyed the benefit as well as the risks should not at the end of that period be asked to quit his post. Whatever may be the interpretation of my

friends, option is given to the shareholders as a body to reconsider the position and why is it assumed that a reconsideration of that position, unless it be a confession of guilt, must amount to a dismissal. It is necessary to examine this idea of perpetual rights with a certain degree of dispassionate consideration before we proceed further with this question of the 30 years period. I wish to call the attention of this House to a judgment of the Court of Appeal recently delivered by the High Court of Bombay and reported in the Bombay Law Reporter of the year 1934, the case of Ramkumar Potdar against the Sholapur Spinning and Weaving Company, Limited. I wish here to point out that there was a time when perhaps the words Sholapur Spinning and Weaving Company, Limited, were almost alternative words for one of the most successful concerns on our side. I remember the time when a 500 rupees share of that firm used to be quoted at almost as much as Rs. 8,000. The Managing Agents of that company were Morarjee Gokuldas and Company. The two founders of that Company were Morarjee Gokuldas and Virchand Deepchand. After many successions of assignments the next important point to remember is the clause regarding the appointment of managing agents which occurred in the memorandum of association, because of the belief that it became alterable by reason of the limited provisions of section 12 of the Indian Companies Act. The language of the appointment was Morarji Gokuldas and Company and of any partner or partners of which such firm may consist at any time from time to time. Considering this tenure of perpetuity, created by this wide and universal language, one would begin to think that the period of time that we are considering is neither so insignificant nor is an exploitation. The interpretation of those words as given by the Learned Chief Justice is to be found on pages 926 and 927. This is what I wish to quote:

"The clause provides, as I have said, that the 'firm of Morarjee

Gokuldas and Company', or 'whatever member or members that firm may for the time consist of' shall be agents, etc. Strictly speaking, as soon as new members are introduced into the firm, a new firm is constituted. The plaintiff relies on the words" (*And I wish to call the particular attention of Members to these words*) " 'whatever member or members that firm may for the time consist of' but the facts are that at the date of the incorporation of the company the firm consisted of two individuals, one of whom died in 1880 and the other of whom died in 1908 and none of the present members of the agency firm were ever partners with either of those two individuals. Whatever meaning may be given to the words 'whatever member or members that firm may for the time consist of', it seems to me quite impossible to say that the present members of the firm of Morarjee Gokuldas and Company who were never members of the firm at a time when either of the persons who constituted the firm at the date of the incorporation of the company were alive, can be said to be members of the firm named in the memorandum. The argument of the appellant really seeks to endow this firm with the attributes of a corporation having perpetual succession so far as concerns its relations with the company."

Those who live on sacrifice must realise their obligation

I hope and trust that the true effect of these words will be seriously considered by those who imagine that, whatever may be the width of language used in a memorandum or any article or any contract of appointment, there is a perpetual contract between them and the company and once it is realized that there is no such perpetual contract all this talk of expropriation, all this talk of cutting down their lives, will soon disappear, for I have not the slightest doubt that if you carefully examine many of the existing managing-agency firms in many parts of India, they have run up the period laid down in the judgment and you may be quite certain that, so far as talk of legal rights is concerned, there is very little vestige of it. It is in this light that I want the House to consider the amendment which is before the House, for indeed if it is competent, as the Honourable the Law Member says, for people to create corners, whenever managing agencies are

about to be vacant, I may inform him that it is within my personal knowledge that people have already realized the consequence and the import of this judgment and the futility of putting it in the Memorandum of Association and suits have been filed for the purpose of a declaration that that managing agency agreement is terminated. I know of no case myself in the City of Bombay for the purpose of displacing the Managing Agents yet. Whether such a position will be created or not, I can say with a certain degree of confidence, knowing the corners in the shares of the different mills that have taken place in Bombay, that it might have been the result or the prime motive of the cupidity of speculators in which they themselves in most cases went to ruin. They have never been restored to for the purpose of displacing any managing agents whatever nor have they ever resulted in a single managing agent yet being displaced. If that is so, there is not very much in this bogey of corners left. You are therefore left with this foundation. The system is not merely tolerated,—because I am not one of those who believe in what I may call giving an ungrudging merit to any good that is done for the purpose of the industries of this country, but this House has undoubtedly the right, not merely as a matter of legislative principle but has also the right, because it must be remembered that the Managing Agent forms as much part of the Indian social fabric as the shareholder as well as the citizen and the tax-payer, and it is not with a view to saying, as my friend, Sir Homi Mody, thought, that we sit in the same side or the same group or in the same cart as the Finance Member that we talk of the sacrifices of the consumer. He is indeed very much mistaken; but when we talk of the sacrifices of the consumer, we talk of willing sacrifice, given only in order that the larger interests of the country may be subserved, but only to that extent and no further, and that very sacrifice demands and gives us the right to say that if other citizens have made sacrifices, who are you

to come and tell us, "we have vested perpetual interests and rights", neither of which is right, but assuming it is right, who are you to say that the willing sacrifice of the Indian people for the purpose of raising national industries of a necessary character, should count for nothing? If they bear the sacrifice, why should you not join in the sacrifice in the same willing manner as they have done, and that willing sacrifice, my friends must remember, has been two-fold. I am not here to extol any particular organization or to extol any particular step or even to justify it to non-believers but the fact remains that it is due to those who stand for that national attitude of mind that a man wants to inquire whether this is made in Bombay or in Lancashire. Undoubtedly it is the same patriotic spirit in another land which makes "Buy British" the slogan, it is the same spirit which makes "Buy Indian" the slogan here but those who profit by it immediately and those who live on the voluntary sacrifice of others must, as citizens of that society, realize their obligation to that society and not merely point out the supposed dangers of dislocation, to which I next come.

The next thing I wish to say is this that I do not apprehend myself because, if I felt that the Honourable the Law Member's apprehensions were right as regards the dislocation of any single, decent industrial concern in this country by reason of a provision that the shareholders may be allowed an option of voting whether their services will be continued or not, I should, even disagreeing with every-one, have agreed with him, but I regret to say that I do not share his apprehensions at all, and for this reason. A period of thirty years, in the way in which I have sub-mitted it to the House, is a long enough period so far as compensation for risk, compensation for labour, compensa-tion, even if you like to say so for obliging the Indian people by the services which they have rendered. We also apprehend that a period of five years in such a case, where

he has already been established for a period of twenty-five, has, as in every decent concern, given him a footing and he will be able to stay in ninety-nine cases out of a hundred where he will never be displaced, subject always to certain adjustments which in human affairs must necessarily result in business concerns. I also feel myself that so far as finances are concerned—I speak subject to correction there—that there is hardly any difficulty I know of, at all events, in my part of the world and perhaps some parts of England where in industrial concerns of this character, financial assistance is given for a period at all events extending beyond five years. As regards most of the agreements which I have read—and I am letting out those secrets, having been one of the advisers of the Imperial Bank of India and its successor for quite a long time, and I am in a position to say that no such loans are granted as would cover a period of more than five years so that an adjustment during that period is not possible; and you must also remember to what cases does that adjustment apply? In cases where they have served for twenty-five years and have more than five left, the question does not arise, and a man who has begun five years ago has twenty-five years to adjust himself and any man who has begun twenty-five years ago has five years to adjust, so that I do not foresee the great calamity that will befall the industries of this country if during this period of five years an adjustment has got to be made by the Managing Agents. Then, be it remembered, that there is a clause following upon this very one in clause 87-A, sub-section (3):

"A Managing Agent whose office is terminated by virtue of the provisions of sub-section (2) shall upon such termination be entitled to a charge upon the assets of the company by way of indemnity for all liabilities or obligations properly incurred by the Managing Agent on behalf of the company subject to existing charges and encumbrances, if any."

There are, therefore, the cases of still further rights,

I am told rightly, and in fact of some of them I have personal knowledge,—where many of the managing agents have at all events a holding which is a little over a half and where it is a little less than a half or even substantially less, if for a period of twenty-five years they have rendered services which have been extolled and perhaps rightly extolled in some cases, I have not the smallest doubt that with their own holding and with the influence of some of their friends, let alone the ignorant and the fools and the lunatics to which class fortunately I do not belong, I am quite certain that that managing agency would be renewed. Therefore examining the supposed fears, if I felt that there was any substance in them, as I have said and I shall repeat it, I should have been the last to run any risk of any kind whatever, for I do believe that while the interests of what I may call him the capitalist if you like, of the Managing Agent and of the shareholder and of the consumer must be reconciled, even at the risk of the consumer, for we do believe that we must raise our industries in order to make for ourselves a certain position, we do not use the word "protection" and its supposed disadvantages as arising to the consumer with the same purpose and motive that our opponents use it. We use it only in order to arouse the country to a higher sense of duty and not in order that it may be applied for the purpose of the extermination of our industries by any undue and wrong competition. But nonetheless, while it may be used for wrong purposes, we may certainly be allowed to use it for the right purpose of appealing to our friends here who represent that class, if you like to call them the magnates of this great land. After all, I must say to some of my friends, "if they are not at our mercy, may I put myself at their mercy and say that they will dispel the apprehensions in the mind of the Law Member by recourse to their experience and knowledge, placing it at their disposal and generously contributing to the growth of the society to which they belong". Sir, I support this motion.

WEDGWOOD COMMITTEE

24th February 1937.

Mr. President, the terms of reference to this Committee deserve the attention of the House in order to appreciate the further grounds on which I venture to support the motion which has been moved by my friend, Mr. Satya Narain Sinha. The terms are these:

> "to examine the position of the Indian State-owned railways and to suggest such measures as may",—

then comes in Sir James Grigg's touch:

> "otherwise than at the expense of the general budget".—

then come the two items:

> "to secure an improvement in the net earnings due regard being had to the question of establishing such effective co-ordination between road and rail transport as will safeguard public investment in railways while proving adequate services by both means of transport; and (ii) at a reasonably early date place railway finance on a sound and remunerative basis."

Indian mind suppressed and wasted

Sir, a great deal of emphasis has been laid on the ground that a fit Indian was not found to serve on this Committee. I need hardly point out, Sir, that I am one of those who believe earnestly that this state of inferiority complex does not need to be argued. I am thoroughly convinced without distributing any meeds of praise to my friends who are Indians on the other side that individually, whether as a matter of equipment or intellect, the Indian mind is capable and has potentialities which have only been suppressed and wasted as a result of foreign rule. It is *not* because we are wanting in capacity or intellect, but it is because we are not wanted, and it is a

point of view which my friends may always remember whenever an issue of this kind comes up before the House. The argument is a vicious circle. You don't have the experience, because you are not allowed to serve; you are not allowed to serve, and, therefore, you don't have the experience, a kind of circle in which the Bureaucratic Government has moved for a period of over a century, always satisfying themselves that they must look to other lands for men, if not women, in order that they might be able to rehabilitate the condition of India. Sir, if it did not involve this larger principle, I should not have thought it necessary to occupy the time of the House, but there is something much more than mere personnel in this matter. The question is not so much of merely getting a stranger to tell us how he would run this particular railway as the points of view which have got to be borne in mind which are more concealed than are apparent on the face of the terms of reference.

Should not be a mere paper enquiry

The first term of reference says, make the railway remunerative, but see that there is co-ordination of rail and road transport, so that, out of 800 crores, at least we may get enough at all events to pay the interest charges and see also that, where we do not provide means of transport, the people, who otherwise have no means of transport, do not suffer. There is also a third element in it, and that is, those who sell foreign made vehicles, other than railway wagons and railway engines, do not also suffer. That is the first part.

The second is: "at a reasonably early date",—I hope it won't be another century,—"place railway finance on a sound and remunerative basis". They have only to turn the magic wand, and the railway finances will turn on a sound and remunerative basis. The questions which I pertinently ask the House, and also to gentlemen who have

served the railways of this country ever since the pre-Mutiny days, are these: they have sat here, they have been paid, and if the books which I have read on railway finance state the truth, it is stated that, immediately after the Mutiny, the railway shares which were estimated to cost a shilling cost three shillings, but it did not matter at all, so that the question of over-capitalisation of railways is not merely a new matter. It coincided with two great events, the one was the Mutiny in this country, the other was the invention of the steam engine, and the necessity of selling coal and iron to other countries. I suppose Britain may well remember that, but for that great event of the Indian Mutiny, the way in which their steam engine industy, their steel industry and their coal industry has been fostered they would not have occupied the place they occupy today, though gratitude is none of the great virtues of the race which has ruled over us for many years. They ask us to express our gratitude to them for all that they have done for us, but I would like to know if they have expressed gratitude for the place they occupy today in the world during the twenty years after the sixties. The point, therefore, is this, that it is not so much a matter of mere mechanical paper inquiry. It is to be inspired by the point of view with which the Indian railways are to be governed in the future. Complaints have been made that the rate-making,—with which, by the education which the railway experts have provided me for several years as their counsel, I am familiar,—has now proceeded on a basis which cannot be said to be correct. I have often had to defend their point of view as counsel before the Railway Rates Advisory Committee whenever any Indian industry asked for a change of rates in order only that they might be able to stand on their legs. There can be no question that the rates are made,—it is not a mere matter of arithmetic,—in a manner that they might achieve a certain purpose, and then justify them on grounds which are to be found in many of the text-books on that subject. You

first begin by saying you facilitate a certain thing which Britain wants, whether by way of export or import; having done it, find out some formula by means of which the disparity of rates can be explained. The question, therefore, is whether an inquiry of this character is for the re-adjustment of matters of this kind, not a matter exclusively for the benefit of India and irrespective of any inspiration from outside. We could not very well get that from the wedge or the wood, as my friend over there said. It is a wedge: yes, but it is a wood also so far as its value to us is concerned, and so far as the third question is concerned, without emphasising that virile hatred is a virtue which is now being preached in Europe, we cerainly do feel that we must have spent all our money in vain over the different Members of the Railway Board and the Financial Commissioners including Indians, if we have not yet trained them to understand how our own railways should be run. It is an extraordinary thing to be told that after running our railways for a period of nearly 80 years, nearly 75 years in any case, we cannot find Indians, or for that matter anybody in that service who is able to tell us why our house is not in order; we have always to invite some outsider who is always conversant with conditions of his own country, who has got to be paid by us, who has a policy which is entirely foreign, if not alien to us, to advise us what to do with our railways. And, undoubtedly, he is going to tell us what to do with ourselves—"do with you what we want you to do with in order that we may benefit by you." It is that which is the objection which I have to this formation and personnel of the Committee. It is not merely the short ground which my Honourable friend, Sir Muhammad Yamin Khan, pointed out which generally proceeds on the inferiority complex—why not an Indian? You will never have it if you go on appealing in the squealing manner in which you do. It is only when you have power in your own hands that you will get what you want. You may have the whole of the Indian personnel of the Govern-

ment of India, but so long as it is inspired by ideas, inspired by policies for the purpose of the exploitation of your land, you may be quite certain that the mere fact that an Indian is there will not be enough. What is more important is to find out in whose interest the railways are going to be run. It is said very glibly, we want to run the railways as a commercial measure. Do they in England invite Germans to advise them as to how German trade can flourish in England? Is that the way in which committees are formed in England? Why is there a different principle to be employed in this land for the purpose of forming committees in order that we may, either in matters of finance or in the case of other concerns, set our house in order. Sir, I support this motion.

TREATMENT OF INDIANS ABROAD

8th March 1937.

Mr. President, in supporting the motion which has been made before the House, I cannot help referring at the outset to a statement, made two or three days ago, by an Honourable Member sitting on the other side of the House, but somewhat an amphibious creature whose position I am yet unable to understand. Whenever he has referred to a question of importance in which we have had no redress, he has had the arrogance to call it a "faded flower." I only hope and trust that some day he will think over this withered flower; I hope some day, in cooler moments, when arguments are not likely to fail him, he will consider that it may easily happen, if the description of Sir Cowasji Jehangir is correct, that the British Empire may have to be easily described as a withered flower for, indeed, Sir Cowasji Jehangir was correct when he said that as the result of the Statute of Westminster, the dominions who call themselves part of the British Empire are independent territories like France and Germany. I am reminded of what Mr. Keynes

"Irresponsible to us—Powerless in themselves"

My Honourable friend, Mr. Jinnah, explained long ago that after all if he cannot get at the principal, the only constitutional method is to get at the agents who express their helplessness here, but I am not inclined to think that it is even as good a case as that when I have examined one or two matters within the short time at my disposal. The point before the House is a short one, and it is this. Considering the history of the treatment accorded to Indians in the dominions and colonies or in independent countries, where do Indians stand today? It is not enough to say: "We all bewail the misfortune that we are discriminated against" as if that is going to be the consolation as the result of which the House and the Government of India and their principal, the Secretary of State, and Parliament, who say: We are the trustees of the people of India in order to administer those territories"—I do not know for whose benefit,—are to remain satisfied; if they have any power or authority, if they mean and intend what they say, that the power is only to be exercised only for exploitation and not for restoring equality at least in the matter of treatment. What would happen if an Englishman had discriminatory treatment in other countries; even individually, let alone racially (*Cries of* "There will be a war, war."). Therefore, it is idle to say that a censure of this kind is intended merely for the individual personnel of those who happen to be the third-hand agents, and I will accept their own description of themselves, "irresponsible to us, but powerless in themselves"—a situation more pitiable than any human being would ever like to occupy, for indeed I have never heard it stated by any one: "I am irresponsible to you, therefore, I will be arrogant to you, but I am as pusillanimous as a cat to my masters; therefore, I cannot do anything for you." Sir, I think that is a situation in which the Government of India should feel themselves thoroughly humiliated if ever they have to make a

confession of that kind,—arrogance on the one hand, and pusillanimity on the other! Let us examine the facts, so far at least as the two cases dealt with by Sir Girja Shankar Bajpai are concerned.

South Africa

Take South Africa. The glorious period whether it resulted in an Act or it did not, the period between 1907 and 1913, is a fact which the Government of India, I hope, cannot and will never forget. That was the period in which it was not the Government of India who struggled for us, but the Indians settled in South Africa under the guidance and inspiration of Mahatma Gandhi. And they struggled and struggled without the assistance of their own Government, and without any help from any of the armies for which we pay, and from the tributes which we pay, and the invisible services for which we pay,—it is not they who struggle for us, it is the Indians who suffer the privation of being sent to jail, segregated, expelled, exiled, their properties confiscated, and with the Government of India and Parliament not assisting in any manner, and the voice of the people is heard solely through the voice of those who do the struggle. That is the process which we wish to carry on in this land also, not with their assistance, but despite them, so that we shall achieve the purpose we have in view. Therefore, you must remember that in South Africa the less the Government of India or their representatives say, the better for them about their having done their best or their minimum duty. Undoubtedly, it is true that a period followed in which similar epidemics took place. They were only suspended during the Great War between 1914 and 1919. I know that an epidemic came in 1919. I also know that an epidemic came in 1923, and the last epidemic has now come. And what is it that they say? They say: "Yes it is true the patient's leg is cured, but his heart is in danger. Wait and see

until he is dead." That is the description they give of the solicitous care that this Government of India take care of us. I wish to read to the House three cables which I have received during the last few days from the representative Indians from Transvaal. The first is dated the 21st February, and runs thus :

"South African Indian Congress executive appeals you exert pressure on Government India by moving adjournment motion as protest supine attitude Government India on Pienaars and Groblers Bills introduced. Union Parliament Pienaar seeking prohibit employment Europeans by Indians and other non-Europeans. Groblers referring wives 50 of Indians who are Europeans Malays or coloureds married according rites Indian religions as concubines and prohibiting ownership property by these and their children and forfeiting property by these and their children and forfeiting property presently owned after six months. Bills unjustifiable and offering gratuitous insult to Indians as a race. Miscegenation and a million people of mixed blood in South Africa not work of Indians but of European forebears of introducers of Bill. Grobler was member Goodwill Delegation that visited India."

The next cable is dated the 3rd March. It runs thus :

"Further my cable regarding anti-Asiatic Bills executive grateful for action taken by you and party. Prime Minister, General Hertzog, refused appeal through Agent General received Congress Deputation. Subject matter Bills referred Select Committee personnel eleven of whom excepting Chairman Hofmeyer and Derbyshire balance hold definite and pronounced views in favour of principles Bills......

So that, you may be quite certain that the patient who was cured in the foot and who was suffering from heart disease is likely to die. Only the constitutional position has been mentioned here. It has only been referred to the Select Committee. But you must remember constitutionally the position is not accepted so far as the principle of the Bill is concerned, as if either the Honourable Member or anyone else believed that there was any other event likely to occur as the result of their exer-

tions except that the Bills will be duly passed into law of the South African Union, the cable goes on to say:

"Executives constrained feel that composition Committee surrender to reactionary element Union Cabinet and deliberately backed to achieve object of Bill despite facts and equity."

The third cable, which is dated the 7th March, runs thus:

"Notwithstanding reason objections submitted Minister Agriculture when Congress deputation interviewed him Capetown he promised give sympathetic consideration representations effecting economic existence 21,000 Indian agriculturists and in fact called for draft amendment proposals from Congress, all clauses marketing Bill objected by Congress particularly clause 21 which expressly excludes Indian farmers voting resolutions schemes have passed committee stage Union Parliament. Thus sealing fate 21,000 Indians and their dependents. This exclusion racial grounds addition growing volume colour bar prohibitions in Legislative enactments this country. Minister replying debate Parliament called Indian community tragic and stated discrimination grounds colour inherent this country this declaration conclusively revokes promise contained uplift clause Capetown agreement. Community dismayed and beseeches Party arouse people Government India gravity situation here."

Sir, if this is the type of legislation or executive action wnich my friend considers is an improvement of the condition of Indians settled in South Africa, he must learn his English over again. I am quite certain that he is an adept in that language and in many others as well; the truth is that but for the fact that he was put into the almost difficult position of defending the impossible, he would not have asked the House to say that the condition of Indians is not deteriorating. That, Sir, is so far as South Africa is concerned.

Zanzibar

Come now to Zanzibar, which is neither a colony nor a dominion but a Protectorate. The Zanzibar Govern-

ment fully admitted that long before the British ever went there, the Indians settled there and assisted them in the creation of the only industry, which is the largest agricultural monopolised industry, the growing of cloves: It was Indians' skill, their economy, their industry, their money, and their enterprise which created the industy and which gave an excuse for the British Government to send an ambassador to protect us who in due course of time instead of being a protector became the murderer. That is the position with the British representatives in Zanzibar so far as our economic interests are concerned. I will not take you through the long course of disgraceful legislation, because there is no other word for it which they call decrees, which has taken place during the last two years in Zanzibar, no doubt under the inspiration and influence of those who control politics or embarrass the protectorate, whatever that may be. The rights of paramountcy are taken to be, I believe, similar to those which they exercise over the "great" Ruling Chiefs of this country. Anyway, under his (British) advice these decrees have been passed. And what is the result of those decrees? And here, I am sure, the Europeans at least are sufficiently sensitive. If a moratorium is declared for two years for any man who has got to meet his own obligations honourably, what will be his position except the bankruptcy court, and yet this Government sit down and say: "Oh, yes, the moratorium has been going on for two years and there has been some delay in the payment of money." They say, some delay. Do they understand economics? If that is their knowledge of economics, I certainly will not have them for the simple reason that they do not understand the effect on the economic position of men who are honourable and have got to meet their obligations when their debtors are allowed, as the result of law, not to pay their debts for two years. And yet they are complacently sitting down and telling us: "Oh, but, after all, not very much has happened. Why are you so perturbed? Why are you censuring us? We

are going on in the same jolly old way. Why do you talk of this trouble ?" Sir, if I had the time, I would have read out their own answers as their condemnation—those which my Honourable friend, Mr. Laljee, was going to point out. They have themselves said that so far as they are concerned, they have admitted by their own confession, the restrictions to which the Indians are subordinate whether within or without the Empire, whether in dominions or in colonies or in Protectorates, they are such that they cannot be very proud so far as any action on their part is concerned. I would like to say one thing more in this connection. In the year 1924, an Act was passed by this Legislature to regulate the entry into and residence in British India of persons domiciled in other British possessions and, if I am correctly informed, no rule has been passed, under this Act. I would like to call the attention of the House to section 3 of this Act which runs thus :

"The Governor-General-in-Council may make rules for the purpose of securing that persons not being of Indian origin domiciled in any British Possession, shall have no greater rights and privileges, as regards entry into and residence in British India, than are accorded by the law and administration of such Possession to persons of Indian domicile."

Keep your ways of prudence and wisdom of cowards to yourselves

You have some sort of ability for a retaliatory measure. Has it ever occurred to the Government to take these measures? I have looked down the list of laws which could have been enacted to see if any restriction was imposed as it was possible for the Government to impose under the Act passed in 1924. The Government of India say: "But, Oh! we have made representations." I suppose they have forgotten that such an enactment was in existence and passed by this House. The fact remains that they do not wish to do anything. They dare not do anything. They are

always sat upon if they attempt to do anything. They pass solemn pieces of legislation, but they dare not use them for the purpose for which, at all events, they were honestly intended. When my Honourable friend, Pandit Govind Ballabh Pant, introduced a measure, it was some mercy that sanction was accorded to its introduction. But what prevented the Government of India if they were really so minded to adopt themselves the measure proposed to be introduced by Pandit Govind Ballabh Pant. They would have had the support of the whole of this House if any retaliatory measure was put forward by way of legislative enactment on the lines, the principles of which were already accepted nearly 12 years ago. We are not here to be told: "Oh! yes, your condition is bad enough, but something is going to be done for you, something is being done for you." Well, Sir, this is a basis which I will not accept and which I hope no decent Indian will listen to, for it is not a mere matter of self-respect, it is a matter whether you are a human being or an animal. Either we should be treated with equality with other men in other countries or they should admit that the position of the Government of India is not one of justification in defence, but of hopelessly sitting and saying, that you had better take over charge and by some other method do what you can do. It is your action or your inaction which led to Satyagraha in South Africa where my countrymen and country women struggled for a period of seven years. It does not matter with what result, because it was a foreign territory. But allow me, Sir, to assure them that we will not struggle in vain in our own country to acquire the Government of our own for the purpose of our own amelioration. For we do not see that there is anywhere else to look to. A legislation is passed and treated as a dead letter. No other measure of legislation can be brought in. For I cannot understand, as has been said by my Honourable friend, Mr. Joshi, what soporific effect was produced on their own mind by the proposed measure of Pandit Govind Ballabh Pant. What prevented the Govern-

ment from taking up the Bill themselves and passing it in a day's time. It would have required no discussion, there would have been no division, and at all events, this Legislature would have had an opportunity to do all it could so far as we are concerned. The Parliament continue to treat dominions and other persons under their influence in one way, and treat Indians only as inferiors. Let us not be told that our inferiority is being mitigated. We will stand up for all time and every time for restoration of equality, and, pray, keep your ways of prudence and wisdom of cowards to yourselves.

GENERAL POLICY OF THE GOVERNMENT OF INDIA

9th March 1937.

Mr. President, I move:

> "That the demand under the head 'Executive Council' be reduced by Rs. 100."

In making this motion before the House, I am fully conscious that a great deal of the ground has already been covered by the specific matters which have been raised appertaining to the different Departments of the Government of India, and it is somewhat of an irony, Sir, that having regard to the Constitution, under which we are called here, we can only raise issues of this nature by attempting to cut down and refuse to vote the salaries of men who by themselves are not guilty of the wrongs which we hope to raise by means of this motion, but it appears that, having regard to the fact that most of those who are guilty of this have their salaries thoroughly secured for them under the Constitution by being made non-votable, it is only through others that the convention has been established that we are obliged to raise a motion of this kind and I have heard at least an argument which is so specious that it is

necessary to pay attention to at the outset. When we refuse a vote, they say: "Oh, you are cutting the pay of poor clerks. We are immune, and, therefore, your vote does not affect us"—an argument so specious that I trust that it will not be raised again.

Government failed in every single test

This is the second occasion, Sir, when I have the honour to raise this general question before the House, and it is, I believe, the duty of every opposition even in self-governing countries, either at the beginning or the end of the year, to review the general policy of the Government for the time being. It might well happen as it does happen in self-governing countries, that it has a larger significance than that which is attached here. The significance in those countries is that if the Government is defeated on a vote like this, perforce, they have to surrender the administration into the hands of their opponents. They have, therefore, here at all events, a comfortable assurance that the result of the vote would neither be so disastrous as to deprive them of their salaries nor so disastrous as to make them surrender the administration but nonetheless the House would be wanting in its duty if we did not review the administration of the previous year in order that we may understand to what extent those who have the administrative machinery in their hands have done well or ill by the country and in doing so I do not apologize for giving you a general review of some matters which have already been discussed, because when you review a general policy it is inevitable that things which have been specifically discussed must, at all events, be mentioned and it would be my purpose to point out to this House that whether you look at it from the point of view of their attitude in the sense of the approach to the questions for the amelioration of the condition of this country or their attitude in the matter of a response to the vote of this House or their attitude in regard to the

raising of the well-being of the country. In every single test, it would be my duty to point out to the House that the machinery of the Government last year failed. To begin with what was the last vote of the House? What are you doing with our monies in dealing with the Frontier question? It was pointed out to them, at all events, during the last two years until the vote was taken a few minutes ago that this policy of encroaching upon the liberties of others is a nemesis which, though small in itself, will some day, overtake the fate of the empire itself; but they seem to think that so long as you can find a phrase by which you can justify or at all events irresponsibly speak before this House and say, "We are following a policy of peaceful penetration," in other words, all you have to do is to coin a pharse, such as "close-border policy," "open-door policy," "peaceful policy," "penetration policy," "violent policy," I do not know which it is, it is all right. Sir, I remember reading the life of Bernard Shaw, and a critic of his says that while speaking of an Englishman he was right in averring that an Englishman would do anything, so far as his political conscience is concerned, if only so long as you can give him a formula to suit the particular conclusion he wished to arrive at; and I think it is never more clearly illustrated than what we find every day in this House in so far as matters of moment are concerned, and, therefore, to the extent that the House can influence them, they say, "We consult the House," but I would like my friend to tell the House or I would have liked him to tell the House before he concluded, that he would be careful in the immediate future. Did he ever tell you to what extent he and his Government were careful in listening to the debate of the House and finding out that they might enter on a better policy? For, however, much they may pretend to be the trustees, it is with my money that they are playing, it is with my men they are playing, and it is with my ultimate fate that they are playing.

Pretences played too long

Sir, these pretences have been played too long and too often, for indeed more successive changes must come from time to time in the administration and the constitutional machinery of this country and it is only when the final stage has been reached that we won't hear the oft-repeated tale advice without following another man's advice. Sir, consider the Indians overseas. The House recorded its vote yesterday in a manner in which there is unmistakable sign of acquiescence of the Government for indeed while we stand for the principle for which we stand, the action is entirely in their hands by reason of the constitution under which the Government of India is carried on, and we have lived to see that: and I wish here to state one point more which I did not mention yesterday that when, within certain limited areas, the Bill was passed by the South African Parliament that Indian settlers may be allowed to own lands, the Agent of the Governor General, Sir Raza Ali, called it an epoch-making measure. Sir, that is an accurate clue to the mind of the Government of India in its relation to the Indian people. They realize that you must be driven out from the main ground, taken into a corner, and if there is a mitigation in some slum, a right to acquire property, they call it an "epoch-making measure." Have they ever thought in terms in which they ought decently to think, namely, in terms of Indians as human beings that is, so long as they were not allowed to remain on equal terms in the country which they in their turn admittedly serve in order to raise their prosperity, there is no alternative but that the Government of India cannot defend themselves? The policy there of mitigating evils, asking us to be content with small mercies and calling all that "epoch-making measures" equally shows the great aspiration the Government of India have, the great concern which they display about raising the status of Indians in countries where it is their obvious duty so to do. That

is so far as outside India is concerned. Coming nearer home, how do they manage our affairs in the rest of the parts of the administrative machinery? I have not yet heard in this House that, judged by the common standard by which the Government of every country tests its value to the people of this country,—food, clothing, shelter, education and the wiser use of leisure, and means for that purpose, I have not yet heard a single Member on the side of Government during the last three years to tell this House and through the House the country that the earning capacity of the Indian has been raised by a single rupee.

The rupee is, after all, a measure of expression; though I quite agree that, knowing what we do of the poverty of this country, I would accept gladly the amendment that they have not even stated if it has risen by a pie. After all, if the Government does not exist for the purpose of ameliorating the condition of the masses of the people, if they merely exist for the purpose of satisfying themselves that they are an efficient administrative machinery, that they exist for themsleves and we, in turn, exist for them that is a position that we cannot accept, that no party, realizing their responsibility to the country, would ever accept. Have they ever told you to what extent education has made any material progress in the country, to what extent, if any, nation-building has made progress in this country? Indeed, in the previous year, out of the largeness of the heart and due to the plenitude of the purse of my friend, Sir James Grigg, he got up and said, "We are now becoming solicitous, we have ample funds, and will grant a crore of rupees for the purpose of village uplift." I do not know to what that is a compliment, but, to whomsoever it was so, it came out of a heart which generally sits more or less covered to the woes of the Indian people; he is concerned only with the treasuries of the rich and of the richer masters that he serves, and as regards the use of that crore of rupees, well, the less said about it, the better.

In the first instance, it could not go round with any modicum of relief; and he must have realized that. When we come to the next year, the tale of woe begins. At all events, the budget shows that in times to come that largeness of the heart would not be able to expand itself for the simple reason that he dare not encroach upon the spheres of a certain of others of his friends who are getting more and more avaricious every day and in particular my friend, Sir Aubrey Metcalf. The fact, therefore, remains that the odd crore of rupees which they raised are already expended in advance and so far as the future of the country is concerned, it may well take care of itself. We could not very well be proud of a Budget which provides nothing so far as the poor man is concerned, so far as his means of livelihood are concerned, so far as his clothing and shelter are concerned, so far as the improvement of his health is concerned, or so far as education is concerned. I will not detain the House by the somewhat debatable issue on which we have a definite opinion as to the imposition of a sugar excise duty, but I will only say this, that on the admission of Sir James Grigg himself, it will kill a few of the factories which have been raised under the very protection which was part of the discriminating protection policy of this Government. It is, therefore, for him to bring things into being and it is also for him to murder them at his pleasure. That is the kind of argument which seems to justify the imposition of a sugar excise. He says: "I have brought into being fourteen children, but I think three of you are very unhealthy. I am going to kill you". Sir, if that is the way in which economics work, then I make a present of that economics to him, but I am quite certain that he has a greater sense of propriety and a greater sense of humour than to bring into being things only to kill them afterwards. We do realise that if means for the purpose of raising taxation are to be devised, it is a far better measure to cut down your expenditure rather than to kill the three children however lean they may

be. But there is the other side of the account to which they never look. The only question is: "raise what you can and spend every pie, so that nothing would be left": keeping everybody helpless, crippled; and I do not know what successive Governments are going to get except the same continuous load of national debt, and I had it from my own friends from overseas that if we ever attempted to re-pay the debt by some process which we have raised in England, they are most unwilling and they would be very unhappy if we paid and that for a very simple reason. It is this excuse for the maintenance of vested interests and the power, the almost decisive power, which they always claim and the voice of Assemblies like this so long as constitutions of this kind are devised. But for that excuse, many of them indeed would have had nothing to say in the administration of this country. They may, therefore, well remember that national policy can be turned to purposes other than those to which they are at present turned in order that you may remain and continue the depredations with which the country is only too much familiar.

Make India self-sufficient

When you come to other branches of administration, we know that the Federal Railway Authority is going to come. But whether it comes or not, for the last three years we have been saying: Let us be self-sufficient, at all events, in the matter of every part of being able to run our railways. I remember very well an account given by the Honourable Sir Muhammad Zafrullah Khan when he said: "Yes, it will cost an outlay of some 98 lakhs of rupees for the manufacture of locomotives". He also said that he had counted the return. The parts which can be and must be bought from outside and which we are unable to manufacture here for reasons best known to himself would cost about 20 per cent. over the price which is now paid in foreign countries. But he forgot that it was not the *return*

on that 98 lakhs of rupees which is the real issue. Of course, clever lawyer that he is, he confined himself to that issue. He ought to remember that one crore added to the 800 crores already sunk in this country will make India self-sufficient in emergencies and otherwise and, even apart from emergencies, in order that we may be able to train our children in many applied arts and science and mechanics. When it suits their turn, they want to raise every branch of industry in their country, but the truth to be told is *this that they have maintained certain factories in foreign* lands which can be turned to purposes of preparations for war before or during the course of its progress. Those machineries and those factories must be run and in the peace time they can only be run by orders from abroad as well as in war times they can be turned to other purposes. It is that high efficiency which they wish to maintain. Otherwise, there is no reason why by adding one crore of rupees to 800 crores it is not possible to begin the policy by means of which we may be able to manufacture things. I remember very well a question which was addressed to me by an Englishman some ten years ago with a touch of irony. He said: "When we are gone from your country, who will run your trains?" I said: "I understand your question but I also want you to understand that I realise its significance and the realisation is this that each time you would not train the Indians to do what they ought to do, you would make their inability an excuse for your own continuance". If that is the line of policy which is to be pursued, I do not wish to pursue the matter. I have had a few words to say about the Railway Policy and I do not wish to repeat them. But it is the point of view which is of great importance to me than the actual single item. Why is it that the Member in charge of the Railways is unable to tell us plainly as he should? Why does he not say: "Yes, it is true it will cost 20 per cent. more, but what does it matter? What difference is it going to make if we spread this 20 per cent. over 800 crores? I wish to raise factories

in this land so that my youngmen may begin to acquire the deftness, the art, and the skill, so that the necessity of the foreigner to remain always with me may, at all events, some day cease in a very short period of time". But he dare not say that. Of course, he would not acknowledge it here. He justifies it on other and different grounds being undoubtedly the victim to a policy for other people's purposes. That, Sir, is the story which may well be added to by other matters which have already been the subject of discussion before this House.

When you turn to other matters so far as I can see them, I should like to know what has been done with reference to it during the whole course of the strike on the Bengal Nagpur Railway. Did it ever occur to our friends on the other side that there may be the poor man's, the employee's point of view notwithstanding any questions of economy or otherwise? We have been told: "But you say the same tale over again". But if the evil persists, it is the evil which is responsible for the complaint and it is no use saying: "Why are you complaining every day". In fact, the very fact that we have to complain year after year is a testimony to the perverseness with which the administration in this country is being carried on in a different way to what it must be carried on from the true and general national point of view. So, it is no use telling me why I am moving these cuts every year instead of your asking yourself: "Why are we making it necessary that these cuts should be moved every year?" Indeed you may be tired of being told that you are doing, but I wish sometimes that you would get tired of doing the wrong itself. For, indeed, very often I am asked why is it we are not tired of bringing up this question every year, and sometimes men are taken aback by this question because they do not think deeply enough occasionally. My own friends say: "Oh, but why do you want to move this cut every year?" The only answer that I can give to my friends and to those who sit on the

other side of the House is that it is you who make it necessary for me to move this cut every year, it is you who are the prime cause of the trouble and not those who want to call you to account for what you do. Therefore, I make no excuse whatever for what we have done so far. I admit that it has been my regretful duty to move these cuts during the last two years when I have sat on this bench. But what have my friends on the other side done? We carried a vote which was perhaps one of its kind in the history of this House where we were given a promise that the vote of the House would be carried out by those who are in charge of the responsible government, I mean the vote on the termination of the Ottawa Agreement. I have no doubt that the formal notice has been given, but what has happened since? A year has gone since the vote has been taken and yet I take it that negotiations and negotiations and negotiations are going on very much on the same lines on which the Government of India Act was sought to be changed some years ago. Ten years have passed: so they appointed the Simon Commission. They took three years on that, three years more on another Conference and two years more on drafting and I take it they will take three years more on the Act being brought into operation. That is the policy by which many things are done in the letter but not in the spirit. And I take it that the manner in which this matter is pursued would certainly not be worthy of a national government for I know that if they ever took our point of view they would know how to negotiate about it, how to go about it and how to get the best advantage by pressing the matter home and not by proroguing and proroguing as they have had to do during the last year.

Failure writ large

Very well, Sir. And so far as the Home Department is concerned, I do not wish to trouble the House inasmuch

as there is a special cut to be moved by the Nationalist Party under the head of "Repression". But I will ask a question as to what was it that led the Government to pass an order excluding Khan Abdul Ghaffar Khan, the man who is universally respected in his own province, during the period when they said they were trying to give a chance to the men and women of that province to express their will as to what form of Government they will take. Judged, therefore, by every correct standard and so far as we on this side of the House are able to judge and so far as any dispassionate and reasonable test can be applied, failure is writ large on the administration of the last year. Undoubtedly they have kept up their administration, undoubtedly they have carried on what may be called the policing of this country but can they point to any substantial act for the well being and the improve ment of the condition of the people without which every administration must be said to have failed? Sir, I move.

POLICY OF REPRESSION

10th March 1937.

Mr. President, if the Government feel that on a grave issue of this character, the mere fact that they speak last is going to do their case any good, I have no objection. I always thought that a justification was obviously called for when civil liberties in any country are restricted in any form whatever. It is not denied that many civil liberties may be restricted in the interests of the State; but it is for those who place the smallest restriction upon them to justify it. Without that justification, they stand self-condemned. It is usual with all Governments, however civilised or irresponsible they may be, that whenever they restrict the liberties of individuals or groups they come forward with a justification on the ground that it is only for the interests of the state to which those very citizens owe allegiance.

But here it seems that the law does not apply. As one of the sponsors of the Civil Liberties Union which has, as you are well aware, branches in most parts of the civilised world, I cannot allow this occasion to pass without expressing our view of the manner in which the administration of the Home Department in so far as the encroachment on civil liberties is concerned, is being carried on.

Terrorists for want of occupation

To start with, it is not denied that in every department of activities for which liberty is claimed, there is undoubtedly restriction by the present Government either by means of legislative Acts where they have the discretion to apply them or not, or by means of executive action. To take stock of the situation, as it now stands, you cannot help beginning with the province of Bengal; and the very policy as it is called which is now being pursued, as to which some gentlemen who regard themselves as very useful citizens by sitting on the other side of the House and voting with the Government seem to imagine that they are preparing the future heaven for this Government of India by the policy which they have hitherto been pursuing—but let them remember that after years of pursuing a wrong policy it requires very little arguments to tear off the disguise of the way in which they now wish to go back upon it as quickly and as decently as they could : for whatever credit may be given to the present Governor of Bengal—and I am not here to distribute praise or blame to the administrators in any part of the country—one thing is quite clear, that whenever the State and particularly a Government like this have got to reverse their policy, as usual they find an excuse : the excuse now is "We are training these young men to some useful avocations so that they will turn away from their wrong mentality and become useful citizens". But why did it take so many years for that wisdom to dawn on those all-powerful trustees of British Indian interests in this country ?

If that was the method by which the terrorist was to be dealt with, why have had all the oppression and the suffering, all the privation which has had to go through? And I have yet to hear, notwithstanding a few verbal speeches made on the other side, as to what it is that made a change in the mentality of those who, it was supposed, were murderous anarchists. If they were right so far, there is no question of going back upon that policy. But it is obvious from all their methods—and the communiques which I have been reading from Bengal during the last few months—that they are now finding some excuse for correcting an error without at least having the decency to admit it. The fact remains that batches of men are sent out—who they say will be released from ordinary restrictions of detenus and will have some other restrictions, the description of which is not clear, and the extent of which is not described—what they call some village restrictions of a nature which it is very difficult for a layman like me to understand, not having belonged to the great administrative hierarchy. But if the situation now is that the new policy as they call it of reconciling these youngmen instead of driving them into the methods of violence is true, what does it signify? It signifies one thing at all events, that they were terrorists for want of occupation, if their own remedy, which they propose to apply, is correct. For after all, what is the remedy which is suggested by them? "We are now trying to educate these young men"—for you may remember and the House may remember they have passed some of the most severe tests in University examinations even during the period of their incarceration. Their natural abilities were never disputed or denied. But they now say that they are turning those abilities to a useful purpose in order,—to use the hackneyed phrase of the gentleman who spoke last,—to turn them into useful citizens. But how will you turn them into useful citizens unless you know the diagnosis of the terrorist movement as to why they became, what they are alleged to be. They have become what they are either for

want of employment or your methods of treating that part of India with a severity, for which you yourself will pay the penalty in due course of time, were wrong. If it was the severity which drove those youngmen to adopt such methods, you ought not to have adopted them. If it was a question of training them to a useful purpose, there was no reason why you should have waited for all these long years in order to train them to that useful purpose, so that instead of being unemployed anarchists they would have been employed as useful citizens. If, therefore, the present system, the present process, has any meaning at all, it is the clearest condemnation of the policy which has hitherto been pursued with so much piling up of misery and suffering and loss of human life and liberty. And are we really so deaf to the understanding of the human mind that today we do not know what the Government are doing? Not having suffered themselves, but having inflicted unwarranted suffering on large masses of youngmen, they have now got tired of inflicting suffering and thereby making them tired,—for you cannot kill the flame of patriotism by that method,—we know what the Government are doing.

Way of reforming a criminal

I will relate, Sir, what happened to me in the Nasik Central prison. Believing that I was put in the "A" class, they thought that the proper warder for me was the worst habitual criminal in the jail. So they put a man called Ramu; who had an accumulated sentence of 50 years not actually to be suffered, because some of the sentences were to run concurrently for dacoity, murder and all the rest of it. When I began to ask why such a man was let loose for the purpose of being made a warder of a respectable citizen, he brought me what is called the history ticket—I was very anxious to bring with me my own history ticket, but they would not allow me to take it out,—and I found that in Ramu's ticket it was clearly stated that he had been sentenced to flogging three

not condemn mere patriotism that you give it the false name of anarchism. They want a Government, but not yours which they think is anarchy, but ours, which is good Government. And why should they want it, I like to know. Sir, so far as the treatment of youngmen in Bengal is concerned, whatever may be the fate of the Governments in this country or the present Empire, it will be one of the darkest pages which will have to be read at a time when memorials have been raised under similar circumstances, when Empires have changed to the hands of those who have suffered for them in earlier days, and I hope and trust that the present Government before it hands over charge, as my friend, Sir Muhammad Zafrullah Khan, was yesterday singing, as I always thought, his last swan song, let us hear at all events the song of decency, a song in which there is a recognition that after all is said and done, they had committed a wrong, they were prepared to acknowledge it, they were prepared to right the wrong. But if it is merely to be done in that grudging spirit in which it is being done in Bengal, under a pretence of mercy, of patronage, of arrogance, that they had a right to repress and suppress occasionally, I should like to tell them, that they may as well keep these men confined in a manner which according to this Government they desire befits them for the cause they have suffered. I am not here pleading their cause on the ground of pity or sympathy. I shall be the last to do so, standing as we are for the principles for which we do. But I say that these men ought not to have been treated in the way which they have been. It is contrary to the first principles of natural justice. The only ground that is given is that the evidence is of such character that it cannot be decided in a Court of law, that people who are likely to put forward evidence will be murdered. If that is the ground on which a person is not to be brought to trial, I think there are many cases I can think of during the last thirty years of my practice at the bar, which might have served as a good excuse for the abolition of most of

the tribunals. A man merely suspected of a possible crime, or a possible crime which they may attempt if they were free, a crime which defies definition in the eye of law and common sense,—the crime is this that if they were free they might possibly commit some possible offence. That is the crime under which men have been kept for a period of 20 years and more without trial. Waste of human energy and creation of a feeling of bitterness, which is certainly not a preparation for handing over a good Government to a successive Government, despite the opinion of those who might see darkness in light and light in darkness. For, one fact remains that if you hand over the Government after having done the wrong that you have done, the first righteous act of the Government would be to show to what extent you have done wrong to this country. I hope and trust that the first great act of the Government which will come would be to see that all men and all women in the country detained without trial shall be free men and women. So much, Sir, so far as Bengal is concerned. So far as the rest of the country is concerned, the situation is none better. May be that they were obliged under the stress of the suspension of civil resistance to lift the ban from certain groups of association. They still retain and maintain a bitterness, a pettiness, of which I will only give one example. There are four ashrams in the Bardoli Taluka, one in the town of Bardoli itself,—all these not different from other ashrams. If anything, they have greater traditions of sacrifice and useful work than perhaps any other ashrams if a degree of comparison is allowed.

I shall finish in two minutes. And yet this mighty Government have not raised the ban on the Bardoli Ashram. It would be an acknowledgement of defeat because that is where they began the struggle, and if you raise the ban it will assist in the emancipation as they thought of a great deal of suppression which was being carried on. I am very glad indeed that they have not

raised the ban on those ashrams though promises had been held out before during the last budget session that that would be done. I have thought and thought to find out whether there could be any reason for singling out these four ashrams out of hundreds of such ashrams in Gujerat, and the only one that I find is this. My Honourable friends do not admit it; they repeat to me many stories. But the fear with which they governed us has already begun to seize their own minds, and it is one of the most hopeful signs of the advent of the future self-government of this country. One word more, and that is the banning of the pledge of Independence which was used to be read on the celebration of the Independenee day since 1929. I will only add one sentence. I have read the pledge which was banned and I have read the earlier ones which had been read. And the Government in taking the action that they did could only have been inspired by one of two motives, either that many of us would read it and our attention would be diverted from the struggle in which we were then engaged of elections so that those of their henchmen might have some chance, or they were so afraid that by reason of the intensive propaganda the shaking foundations of the Government were likely to be shattered.

Sir, I have done, but let Government now have the decency and the generosity to acknowledge that in pursuing the policy of repression they have done a wrong which they will put right as soon as they ever can.

INDIAN FINANCE BILL

20th March 1937.

Mr. President, for the third time during the life of this Legislative Assembly, I find myself in a situation which, if we had not got used to it, would be regarded as almost tragic in the history of institutions of this

nature. I wish tc remind the House that during the time that the main part of the Opposition in this House was carrying on a struggle outside the House for the emancipation of this country, the not uncommon criticism was by those who sit on the other side, the Anglo-Indian press and by many candid and kind friends that we were pursuing the path of sterile non-co-operation. I remain unconvinced as to the propriety of that criticism, but nonetheless by a series of circumstances and accidents I found myself, more or less against my wish, in the position in which I found myself a little less than two and half years ago in this House. I then still hoped—though I think it was my own fault that I should have entertained that hope at all—that their criticism had a more affirmative meaning than a mere desire to criticise whatever we do in the hope that so far as they are concerned, their condemnation has some force or meaning. Believing, therefore, that by coming here we shall find ourselves in a different atmosphere to what prevailed before, I allowed myself to think that circumstances had to some extent altered. My experience during the last three years has confirmed me in the belief which I expressed last here in the words which Mr. Dadabhoy Naoroji used some 37 years ago. This is what he said:

> "The Legislative Council was (*and I say now is*) simply and solely a delusion and a farce, and its working constituted a worse despotism than was ever exercised by any native ruler even in the old days. An Oriental despot, when he misgoverned, acted so to speak like a butcher, and people were astounded and horrified ; this new despotism of civilization rather resembled a murder effected by a clever but unscrupulous surgeon who drew all the blood from his victim while leaving scarcely a scar upon the skin."

Neither sincere nor earnest

Those words are as true to-day as they were when they were written 37 years ago. They talk of enlarging the liberties of the people; they talk of steps towards self-government of this country ; but their action, at all

events, denies any claim either to sincerity or earnestness in their professions. I am surprised that in a budget such as we have had presented to this Assembly extending to several crores, it should be necessary for the Finance Minister to come here and tell us that it would be impossible to govern this country without loss of credit, without any detriment to the internal government of its country or its external protection, if you like to add that, if you reduce 1,65 lakhs out of the revenues. These 1,65 lakhs would have then to be reduced on the expenditure side. But we have a Government of India consisting of the real consumer for which the Honourable Sir James Grigg has a great deal of solicitude. It is not the poor Indian cultivator who is usually exploited as a consumer. It is the insatiable appetite of the consumer being a part of his own body-politic, to which he ought to pay more attention than the consumer he talks of now and again. It is that consumer who takes all that he can rob from the already starving millions of this country. Therefore, this hydra-headed monster of Government consisting of a consumer and robber makes it his business to see that the last ounce of blood cannot be saved.

I remember, years ago, learning the language of those who govern us, that I was told that after all even though you may demand a pound of flesh, you may at least within the category of that demand leave a jot of blood. Evidently, between the consumer who cannot be touched, the robber must have his way, for he comes to us now and tells us that the danger to India would be so serious if, for instance, the army expenditure were reduced from 45 crores by 1,65 lakhs, and if, for instance, the prodigal son when he returned here as he has done after the last three years, had not expected, and I hope he did not, a fatted calf except those who find themselves on this side of the House. He will not do anything to touch them except to keep them feeding more and more. But he must apply his

knife to scrape the little ounce of fat that may be left on skeletons, which is represented by the poor of this land. If this is what is said to be good government and its necessary requirements and implications, then I am afraid there could not be a worse abuse of that term. Therefore, it appears to me—and I commend it respectfully to the House—whether the last straw on the camel's back has not been reached in exposing the farce of this supposed democratic Government of this country, at least so far as this Assembly is concerned.

Is it really useful, I ask, that 144 or 145 men, who have some little value in true life outside this House, whose time has some purpose, whose intelligence has some meaning and some value, should be solemnly called together for a purpose worse than futile? Whether we agree or whether we disagree, it simply does not matter. The only result is the expenditure of time and money in a manner that can only be described as tragic. I would sooner, Sir, the Government of India Act will give the power to the Governor General and his advisers to take the kind of step which they are about to take and instead of recommending to us I would sooner that they became, in the language of Mr. Dadabhoy Naoroji, a plain unvarnished despot without trying to garb themselves into the clothes, to borrow the language of Sir James Grigg, that do not fit them any longer. The clothes deceived the Indian people for a time. I think the better recommendation of the Governor General should have been that this House is dissolved or adjourned *sine die* until the Government come to their senses again. It would have been in the fitness of things, for, indeed, it is a disgraceful sight to see 23 men who are serving in the countryside and who are brought here to raise their hands each time the first hand goes up and take a little mild exercise by walking into lobbies. Why is this money wasted? Why is it not said and admitted that where the Leader of the other side

walks, 23 other persons have also walked? My country is too poor to afford this luxury which is said to be the farce of a Constitutional Government. Then, there are 16 others who stand next to them. I wish I had words bitter enough to bring home to those gallant Captains who come here in their pride and glory of their martial race, not realising the cowardice that lies buried in their soul. If that is the way in which the Government of India are to be carried on, I, for one, would be very glad if this House were closed once and for all so that at least the world may know that the deception is not being carried on any longer. That, Sir, is the mildest criticism of the situation in which we find ourselves. For, why we, at all events who have the capacity to render some little public service should be called here in solemn consultation and votes recorded only to be scorned and rejected afterwards. I refuse to beg, but I still feel that the Government of India might have behaved better, might have understood, at all events, the spirit of the Act if not the letter, for it does not follow that because you have the power, therefore you must each time abuse it. I entirely sympathise and associate myself with my honourable friend, Sir Cowasji Jehangir, when he says that the Constitution does not make it obligatory on your part that you shall be callous, cruel and indifferent to every demand of the representatives of those from whom, by an act of formal legislative measure, you do nothing else but rob them of their livelihood. For, after all, if we are going to perform our duties towards them, we would at least sooner save them the expenditure of maintaining 145 men in this House to no purpose.

House asked to take back its vote

Sir, coming to the amendment itself, I have no desire to add to the debate which had taken place, for what we are solemnly asked to do is to take back the

vote of the House as one of the Anglo-Indian papers reported where every elected Indian Member voted against it. I was told during the course of the debate that it is necessary that the weaker of these factories should be weeded out in order that the stronger children may grow. I do not wish to repeat what I said, but I will content myself by saying that if that process were to be applied to the families of those who sit on the other side, I am quite certain that they would not go to a doctor on the occasion of anaemic condition of some of their children, while others are strong. But if that were all, I would not bother about it. I am one of those who earnestly and honestly believed both as a matter of economics and finance that revenue duty should always be levied on those industries to the extent to which industries must be taxed which can bear it. But they cannot be levied for the purpose of carrying out some indirect check on over-production of a particular commodity. This is a novel and dangerous doctrine. I believe in planned economy, but I do not believe in the economy of the type where profession is one and the purpose is another. But if it were only that, I would not have objected to this measure, but there is something much more distressing, much more poignant behind this. It is to be admitted that whatever may be the future consequences which are pictured, there is immediate disaster to those farmers in the Punjab, in the United Provinces and Bihar who extended the cultivation of sugar-cane in replacement of other crops, and it must take a considerable time for them to readjust their rural economy and while it is being readjusted, lakhs and lakhs worth of cane, I am credibly informed, would probably have to be sold for nothing, if not burnt. If this is the picture the Honourable the Finance Member can contemplate with a degree of equanimity, even leavened by a certain amount of humour, I regret very much that I cannot join him. The Honourable Sir Henry Craik the other day thought I

was using a strong expression when I said that Nero was fiddling when Rome was burning. But I should like to know whether even that great oft-quoted representative of despotic callousness is not being sometimes surpassed by the manner in which the Government treat measures and which, in the name, if you please, of the necessity of good government of India, we are asked to expect, we are asked to receive and we are asked to respond. It is, Sir, adding insult to injury. I wish they had found some other method instead of the one which is now being adopted in order that we may take back what we solemnly believed to be wrong. Sir, on grounds such as these and the manner in which the Government of India Act is being worked if only in order to expose the hollowness, the delusion and the farcical character of the proceedings of this House, it may legitimately be asked why is it that I have allowed myself during the last three years to participate in it. I confess I had a little faith that forms remain forms and they will not be reduced to a farce. And, I have more faith that the more we continue to expose the delusion the sooner I am able to convince those who stand outside this House and at our back on whom salvation of this country depends that we might, by a constant expression of our views on every public question that comes before it, and it would be, if nothing else, an education to my countrymen to the extent necessary to lay the foundation for direct action. It is in those hopes and with that belief that I associated myself for a period, because the natural constitutional life of this House would end so far as the budget is concerned in a day, if not within an hour. I shall seriously consider if this is all the use that this great Constitution and these so-called progressive reforms are capable of being put to, if it is not worth while making an earnest appeal that that delusion would do us some good, it would save some money, and create some decency if this Constitution and its successor were withdrawn and we

were governed as we were governed while we continue our struggle until it ended, as you governed us 50 or 60 years ago. For the forms deluded us for a long time, and in that snare many an Indian who calls himself educated has been trapped, and I hope and trust that my appeal will not go in vain when I point out that either we must serve and be a reality or the farce be ended. With these words, I oppose the motion.

INDIAN NATURALISATION BILL

20th August 1937.

Mr. Deputy President, I cannot allow this opportunity to pass without raising what appears to me to be a question of great national importance. It would appear that a Bill like this sometimes passes by the minds of many unless its implications are fully understood. It is not a question of any difference of opinion as between myself and those on this side of the House and even the representatives of the Government. It is a much larger question which even at the risk of repetition and perhaps in a less technical manner I wish to bring before this House, and which in fact my Honourable friend, Mr. Satyamurti, has already done. The really large question is this. Irrespective of the question whether Parliament has a sovereign and supreme right of legislation for this country or not, and without trenching upon it, if in the English Act the rights of citizenship in the Dominions is left to be created by the legislatures of the Dominions themselves, it does not offend against the right of this sovereign legislature at all if by introducing India in that schedule a similar right is conferred upon this country. It appears to me that the point, therefore, is not so much the present amending Bill as the earlier Acts which were passed dealing with this matter; where, either by reason of oversight or by reason of the state of mind which then characterized our representatives, a position was

accepted which is now becoming more and more pronounced and which should not be accepted or tolerated any longer. It is not even a question of a sovereign legislature for India. It is not necessary to wait for that period in order, at all events, to assert a nationality of our own which others, if they care to, might adopt by naturalization. It appears to me, therefore, that apart from and without reference to the smaller amendment that is now sought to be made and which also involves, unconsciously it may be though, I am not prepared to accept that it is unconscious, having regard to the language which I shall presently examine, some difficulty. I quite agree that none of us need, by repetition, contend against your view of the matter that this superiority complex of yours should disappear. I think it is up to us to shed our inferiority complex and refuse to recognise your superiority. That is the true approach to these problems. Therefore, whenever you make any attempt to impose your superiority complex by making that distinction, I think every Member of this House ought to resist it and it is that which is sought to be made by this amendment. It does not matter a tuppence to me whether the Goanese are naturalized or not. That is a trivial matter. The issue is, in addition to the first bigger issue, that it is the duty of this Government to see—and, in fact, it surprised me when the Act of 1935 was passed and when it was pretended that we were being raised to a higher status approaching self-government or on the road to it—that our citizenship should be put on the same footing as the citizenship of other self-governing parts of the Empire, the Dominions. It is a question which ought to have been taken up and even though it might have been omitted in the considerable amount of struggle that went on over other issues probably this matter was lost sight of. But it is not too late at all for us now to consider, as our attention has been drawn to the matter, that the primary point which the Government of India ought immediately to take up is the inclusion of India in the Schedule to the British Naturalization Act. I

hope I won't be told 'We have done our best and failed' because that is a formula which does them little credit though they sometimes get rattled when we tell them that they have not done their best and, therefore, they deserve a certain amount of expression of dissatisfaction. They try to deprive us even of that little satisfaction by resorting to all sorts of methods with which this House has now become familiar. Therefore the first point which I wish to press again and again on the Government of India is to take advantage of this occasion and withdraw—this Bill and press for the inclusion of India in the Schedule and bring the Indian Statute in line with the British Statute, so that any person of whatever nationality if he wants to become by naturalization an Indian citizen has got to bring himself within the Indian Statute. That is our first demand and inasmuch as I see the greatest importance of this measure from that point that I have occupied the time of the House. It is a thing which I cannot allow to be passed when we have got an occasion of this nature. It is a thing which requires no modification of the supreme sovereignty of British inasmuch as they have recognised that other parts of the British Commonwealth may have their own citizenship under their own laws.

Extremely vicious principle

Coming to the amendment proposed, if it were not a part of the Bill and if it were not in this House, stronger language could easily be used though I am told that even if I used it here it won't be unparliamentary. But I prefer not to use it. Now, let us see what is sought to be introduced. "That he is not a British subject" because that is part of the old Act, and being a British subject he has acquired the rights of Indian citizenship incidentally. Then it says: "or a subject of any State in America". I do not see why these words are needed. I realise that a subject of a State in America may

by obtaining a certificate under the English Act, avoid the necessity of getting a certificate under our Act, but nonetheless why is it necessary that we should be debarred from naturalizing? Supposing there is an American—and I hope a day might easily come; you may not imagine it to be possible but we do—who says; "I do not want to be a British subject, but nonetheless I want to be an Indian citizen." The result of those words is to debar him from becoming the Indian citizen without becoming a British citizen. I do not see any justification for that at all unless the idea is, as I shall presently point out by a clear examination, to have Africa and Asia on the one side and Europe and America on the other. I have no objection to your doing so but you must remember that the more constantly you emphasise this matter the more difficult you make it for yourself for the kind of goodwill that Europe and America in a short time would be expected to demand from the rest of the globe notwithstanding its partition as your properties. Remember, therefore, that what you are doing now is not even respecting yourselves. You are really emphasising what it is time you realised is not necessary nor is it wise to emphasise. Take the next: "or a subject of and having his domicile of origin in the European territories." In other words, you may have what you may call a State having its territories in more than one continent, but the citizens of that State in so far as they have their domicile of origin in the European portion of it can acquire Indian citizenship only by becoming British citizens. But those of the subjects of the double State as I call it, a double continent State, who are and who have their domicile of origin in Africa or in Asia, to them alone this particular Bill is to be applied. Therefore, it is perfectly obvious, if you carefully examine it what the object of this statute is. The object of the statute is that whereas an African or an Asiatic has to be of any of the European States, any of the States which might have their territories both in Europe or even in America for the

matter of that, well, as in Asia or in Africa, it is only the non-European and the non-American subjects who at all can acquire the right of naturalization under this statute. What object to is not so much the fact that only the Asiatics and the Africans can apply as the fact that it should still occur to Indian Legislature in proposing an amendment that they should perpetuate this distinction even in the case of the subjects of the same State. You must remember that it may be any State. It happens to be Russia; it may happen to be Turkey; it may now happen to be Italy with the recognition of Abyssinia under the bullying tactics to which you have to submit and which they would try to perform here in a smaller way. But you must remember that the bully who has bullied in one place cannot continue to bully others for quite a long time. You must, therefore, remember that this Bill, innocent though it may appear, has such an extremely vicious principle behind it, such a vicious distinction behind it, that you will only respect yourselves by withdrawing it and it is quite unnecessary that it should be circulated at all.

And the only point that the Government of India should take up is that the British Government should include India in the Schedule of the British Nationality and Status of Aliens Act along with other Dominions which I have mentioned. That is the last thing that the Government could decently do in the circumstances of this character.

INDIANS IN ZANZIBAR

23rd August 1937.

Mr. Deputy President, I wish to be acquitted of the charge that I wanted to follow the speaker representing the Government who has just resumed his seat. I wish to assure him even though I may be accused of vehemence, that, that vehemence is born of at least the same sincerity which he claims for himself. If that is a charge against me, I plead

guilty to it all the time. As to diatribes, I hardly understand its propriety. If a just criticism of the measures of those who are now the irresponsible Government of this country indulged in from time to time is so-called diatribes, then Honourable Members might well conceive the correct position. I will take the trouble of enunciating the correct position so that he may not feel that there is any malice behind it or it is personal to him or to those Honourable friends of his whose services he extolled. That is not the issue before the House. I remember my Honourable friend, Jinnah, on a very memorable occasion pointed out to the Government representatives here that this is the constitutional means of expressing our view, that is to say the view of the House that our interests were not properly safeguarded to the extent to which they should have been either by those who are present here or by the Secretary of State. I think this assumption asserts that they are in sackcloth and ashes. I have never seen a sackcloth on them though I believe I have seen many in the yard in which I was for a year, being punished with sackcloth for a jail offence of a most trivial character, for displeasing the jail Superintendent for not salaaming him. So I am one of those who understand what cloth is ; you only understand it allegorically from the Bible. Therefore I will remind him that this sort of personal appeal is entirely inappropriate to the occasion and is uncalled for. Let us argue this in a spirit of understanding each other, not in the spirit of my friend Sir Yamin Khan who said, "Oh, if Indians have settled in Zanzibar they are not Indians." I believe, at all events, neither Sir Jagdish nor his deputy would ever subscribe to such a dishonourable proposition. For indeed if that were true there were no effort needed to protect their interests at all. I am sure they will tell him when they go out of the House, whatever the vote, "Save me from my friends !" The true issue is this. This is not a motion, (though it happens to be in the name of Mr. Satyamurti), of any particular party. This is no motion of caste or creed or

colour. This is certainly a *motion* for the protection of Indian Nationals without reference to caste, creed or colour. For let it be remembered, and I have taken the trouble to examine it, that the Indian National Association of Zanzibar counts amongst its members a majority of those who profess the Islamic faith. It is a matter of regret to me that our advocates here, those who are expected to be our advocates, are now trying to be the advocates of the Zanzibar Government,—a sorry spectacle indeed! Whatever you may do in your own country or in your province, you may take the proper occasion to object to their policy if you can. To say that my advocate has got the most he could for the Indian national because the arguments of the opponents were too strong, and he could get nothing more,—that I can appreciate. But it is no use saying, "I have done my best and I have done my sincere best, and what is this you are doing? That is not the proper way to appeal to the dignity of the House, in an important matter of this kind. What we say is this that we stand for the interest of the nationals of India, those nationals of ours who are in Zanzibar. And it goes without saying that they have been settled there not merely for a hundred years but history has it that even Vasco da Gama took up an Indian pilot in order to find his way to the Indian shores. But that is merely the historical background of the issue. He must be appraised of the fact that if they thought these things were going to lead to a solution of the position of the Indians there, they would not have lightly undertaken what he thought was a very imprudent measure. Even at this very moment I have a telegram from the Indian National Association, which counts the largest number of Mussulmans amongst its members, intimating me this :

"Third week of Satyagraha passed peacefully community firm stop C. G. A. devised novel method unpopularising and eliminating agent by licensing non-dealer growers paying them prices *plus* commission for their cloves thereby inducing direct sale C. G. A. stop. This tactic

clear index its final ulterior motive. Community eagerly awaits your decision of the House.

If this appeal does not appeal to you but personal diatribe of this kind is going to appeal to you, I leave you to your judgment.

Government backs Zanzibar Sultan's oppressive Measures !

What is the situation today ? Up to 1934 what happened ? Were there no periods of depression before 1934, no fall in the prices of cloves ? And is it not known to those who negotiated this that up to that year Indians, Europeans, Arabs, Africans all lived in amity until our friends the C. G. A. and their unholy predecessors came on the scene ? The Standing Committee on Emigration pointed out that this was the proper occasion for the use of the instrument which my Honourable friend, Mr. James, at all events does not condemn but recommends a very cautious use of. After all he has got two eyes in this matter, and we have one single concentrated attention on our brethren abroad; so that we may take his advice with a grain of salt. But we must certainly accept his admission as regards propriety of the embargo on trade. Even this morning an Honourable Member on that side got up and moved a motion for a Bill for restricting or regulating the import of certain articles into India. I wish he had then remembered that there was something much more important than the somewhat useless measure which he was getting the honour of moving this morning. He might have remembered that the Standing Committee on Emigration in July recommended that an embargo on the clove trade into India would be a measure of effective value for the purpose of this Association. For what is the good of saying, "I have done my best" if I have the power to do better ? I do not blame Sir Jagdish Prasad or his associates. But supposing the Government of India is a subordinate Government, supposing the

Secretary of State does not support you is not there some power in you, like the measure that you moved for other articles, which you might certainly have thought of without reference to any other power, in order that you may bring about a measure for effective relief of Indians? Remember that half of the clove export of Zanzibar is the import into the country. It is an article of luxury. I do not think the Honourable Member knows it because his ways and habits of life are somewhat different to those who know it. It is for those that we are speaking; and I can assure him that it is not a motion of the Congress; it is not a motion by any individual sitting here or there; it is not a motion by a Hindu or a Mussalman. It is a motion on behalf of and for the protection of Indian nationals. So remember that no excuse of any kind stands in the way of protection of our nationals if we are to be honest to them. They have resorted to passive resistance and they appeal to you that if you carry a measure of this kind and an embargo was laid on the clove trade, their difficulties would be solved. And who suffers by this? It is no use telling them, "Oh, my friends, you have carried on your trade for a hundred years, but the Government of India have done their best and I advise you to please give up your satyagraha." They are prepared to suffer and pay any penalty, and I can assure you that justice is on their side. To try to break the satyagraha which has been carried on for three weeks by means which I have read out does not redound to the credit of the experiment associating with the C. G. A. or by whatever other name it may be called. You may be quite sure that a fighting speech from Government was not required on this occasion. They ought to have realised that we are trying to pass this vote in order to assist and strengthen them, if they were to bring in a Bill for putting an embargo on cloves into this country. Such a vote will have prepared the way for it. Instead of that, we are met only by this as a sort of *argumentum adhominem* for somebody who was in this

place here carrying on some measures of relief in his Province where the Congress is in power. Is that a question in that particular part of the world between an Indian national and a non-Indian national? But that distinction is an item of no importance, of no consequence whatever when it comes to an argument. It is a great pity, Sir, that the Government of India should have been an advocate for the oppressive measures issued in the name of the Sultan of Zanzibar but really carried out by the Resident, and therefore by the Colonial Office. The real dispute is,—it is no use concealing the fact,—the real struggle is between the Secretary of State who is trying to protect Indian nationals' interests without much bothering about it, and the Colonial Office which is trying to protect the C. G. A. and everybody who stands behind it. The vote of censure if passed will be duly conveyed to the Secretary of State, and no person sitting on the other side can flatter himself that it is he who either failed or succeeded for the simple reason that they are unnecessarily subjected to the orders of the Secretary of State.

Spoliation and Expropriation.

Therefore, my regret is that it should have been taken in a personal light of this kind. And as regards the matter of acquisition of landed properties in Zanzibar, there are two answers I make,—first as regards Indians owning property there. The number of trees is a somewhat misleading business. I do not think my friend ever counted the number of pine trees in Simla,—I hope he has not,—anyway it will be a useful occupation seeing the kind of things in which he indulges. But the fact remains that a Commission presided over by the Chief Justice of Zanzibar have come to the conclusion that the Indians have only owned, after a settlement of 100 and odd years, 6½ per cent. of the clove trees, and of the mortgages 13½ per cent. So let there be no delusion created by the

use of words like thousands and lakhs, for I do not know how many multi-multi-millions of trees exist in this country, but that is not the kind of argument I expect from the representatives of the Government on an important question like this. I was hoping that they would have said—'If you pass this, it will strengthen our hands so that those who are now carrying on the struggle at their sacrifice may preserve what they have enjoyed for 150 years.' It is not a question of protection against free trade. It is another delusion from which some Honourable Members suffer. Then what is the C. G. A.? An association in which there is no clove grower, but it is still called a Clove Growers' Association,—there is no Arab or African on it,—but only Englishmen. Have they transformed themselves so quickly as to become both a grower, an African and an Arab? And it is said solemnly in this House that it is a question of protection against free trade. No, it is a question of spoliation and ex-propriation, because it is not the Arab who is going to gain, it is not the African who is going to gain; the only persons who are going to gain are the C. G. A. and those who are behind them. Sir, I support this motion.

ANDAMANS PRISONERS

25th August 1937.

Sir, most of the motions which come before the House on a subject of adjournment have naturally to satisfy the condition that they are matters of urgent public importance. But there are some which are matters of grave public importance; and if the common aim between Mr. Thorne and his compatriots on the other side and us is that we should receive the ashes of these prisoners, he may be quite certain that he is mistaken in the community of aim. That cannot be our aim, in the name of what he calls discipline and the praises that he has showered

on men the like of whom I know in this country better than he does. I know what a cellular jail is; he does not know it except from an inspection, of which in order to relieve the intensity of this occasion, I will tell you an incident. I remember in the Nasik jail a gentleman of the position of Mr. Thorne coming up for inspection. He walked round the jail and came up to me. I did not wish to be introduced but I was forced to be introduced; and the gentleman said, "Oh, this is a very comfortable place, Mr. So and So naming me. I said, "I would not like to tell you anything more, but shall we exchange places for a week?" And you had to see his face then! So that let not those who sit in comfort here talk about the patriotic services which are being rendered by the four men who were mentioned, the like of whom I am fully familiar with here.

Fuel and Shrouds collected as soon as hunger-strike Commenced !

The issue, Sir, is quite plain before the House. The issue is not what is sometimes made out to be that a Government, —any Government it does not matter which,—cannot yield to a pressure of this character. But there are occasions while the same pressure from individuals may not be submitted to, it becomes a pressure of a nature that no Government can ever resist at the risk of its own safety. It is no use putting forward wrong issues. If you must steel your conscience against right doing, if you must shut your eyes today with such equanimity, you might at least have adduced better arguments than those which have been addressed to us to-day. For one thing was answered that as soon as the hunger strike commenced stacks of fuel and shrouds were kept ready. That is what you call a preparation for the transition period leading to self-government. I am ashamed of that type of discipline which can make a man continue hunger strike by telling him—'If you

die, it is a matter of no consequence to me'. If that is the way to discourage hunger strike; if that is the way to persuade men not to resort to hunger strike, I am quite certain that the glorious praises which have been given had better be withdrawn in calmer moments. The fact, however, remains that the thing has passed beyond the stage of ordinary instances of discipline, and may I assure my friend, Sir Muhammad Yakub, that the Government of the United Provinces and the Government of Bihar,—somehow or other he is fond of telling me what those Provincial Governments in Congress provinces should do,—may I tell my friend that those two Provinces have already demanded the repatriation of prisoners belonging to their Provinces who are now in the Andamans? I am told that Madras also has demanded the repatriation of its prisoners who are now in the Andamans. So that, so far as his advice to us is concerned, I hope he will give us the credit that we understand the administration of law and order and to be able to draw a line between discipline and death.

Sir Muhammed Yakub: I have drawn the line on several occasions.

Object of punishment reformation—Not vindictiveness

Mr. Bhulabhai J. Desai: I am afraid he is incapable of doing so, otherwise he would not have got up in this House and talked in a manner that does not redound to the credit of the position he occupies, for, Sir, we must remember four facts. Since the year 1920, Andamans,—and I have read the Report,—has been condemned as a place unfit for prisoners in every form, except those of a class to which these prisoners do not belong. It has been admitted that from every point of view the place is unfit as a prison, I am one of those who believe that, while punishment by courts or otherwise, is a good deterrent,

vindictiveness as an element of punishment is one against which I have always set my face, and my friend, the Home Secretary, ought to know that the object of punishment is reformation and not vindictiveness leading to death. If that is what he thinks punishment is for, if that is the way in which he thinks the power that is slowly slipping out of his hands is going to remain, he is very much mistaken. It can remain, only by extending goodwill to the people of this land. You owe a responsibility not merely to this House alone, but you owe a responsibility to every shade of opinion—and I may remind my friend, Mr. Roy, who referred to the double vote in the local Council in Bengal. I did not wish to make it a provincial question. I wish to make it a national question, for indeed in every revolution crimes are committed, but a time does arrive when the intensity of it is such that every wise Government begins to recognise that reconciliation is better than enforcement of discipline and death in the name of it. The fact is that you cannot speak dispassionately. You wanted us to feel dispassionately. Unfortunately, we cannot do so,—and thank God to our emotion, and thank God to our conscience; we shall not discuss this dispassionately. For you must remember that most of us on this side who understand what law is, also know the limits of the application of its doctrines. Therefore, it is no use making a fetish of what you are making now by your dispassionate consideration of this issue. From one end of this land to the other appeal has gone forth that these prisoners should be repatriated; you were good enough to thank the President of the Congress for an appeal to the hunger striker to give up hunger strike and if those thanks had any grain of sincerity in them, I want to aid you in a cause, not merely of mercy, but of good to yourself, the maintenance of this Government. If you wish to make more terrorists, by all means carry on with your fetish of discipline, by all means carry on with all those shrouds and fuel facing those men, and if you do so, you will

soon find that the Government will dig its own grave with the ashes of these men. You must remember that. You must also remember another thing, that this place is unhealthy in every form, and therefore, if punishment is to have no vindictiveness as an element in the Government which you represent, you have still time to ask, not merely for this vote, but also to respect the vote. Sir, I support the motion.

INSURANCE BILL

6th September 1937.

Mr. Deputy President, considering the wide scope of the Bill which is before the House, it would be more convenient if I state first what I conceive to be underlying ideas, it is difficult to designate them principles, underlying ideas of this Bill and some of the tests which I ask this House to apply in order that the clauses of the Bill and some 1,000 amendments which have come in can be dealt with in a manner both convenient and useful for the purpose of this legislation. It is sometimes not uncommon to describe certain measures as political and certain other measures as non-political. I think during the course of this debate, it was suggested that this was a non-political measure. Subject to the qualification which I shall presently mention, I am quite prepared to admit that it is a non-political measure and the qualifications that I mention are these, having regard to the world conditions today, I think it is common place to observe that it is impossible to divorce economics from politics, if not economics from war. If that view is appreciated, we shall be able to see that a measure of self-protection to one's own country might not be inaptly described as political whatever may be its colour, character or its extent. And in that sense I am prepared to admit and I am hoping to find, leaving out and omitting my friends of the Euro-

pean Group, that even those who sit on the other side now recognise that in measures which come before this House the protection of Indian business is an element on which we might agree, notwithstanding our other political differences. The principal point, therefore, in so far as the distinction,—though I am not at present dealing with the technical distinction,—between the Indian insurer on the one hand and the non-Indian insurer on the other is a matter of great consequence for this Bill. I shall deal with the United Kingdom insurer and the effect of section 113 in due course of time; but remembering for a moment the two interests, the Indian insurer and the non-Indian insurer, there are two aspects which the House has got to bear in mind, First, the protection of the Indian policyholder against any mishap in the unsettlement of foreign relations between India and other countries, and for the purposes of his protection, therefore, the maintenance of the monies which are collected, year after year, by foreign companies in this country not being available at some emergent time which, I think the House will now recognise, is not merely a contingency but almost a probability. There is the other point of view so far as this distinction is concerned, and that point of view is that there must be an encouragement to the extent to which this House can influence and accord, to the growth of this particular class of Indian business which is overshadowed to a large extent by the foreign,—some people call him, exploiter, but I will call him the foreign business man. But the fact remains that the conservation of one's own country's business for the promotion of the larger interest of that particular country is now regarded as an obligation of every State, having regard to international conditions. Therefore, it requires no apology whatever to justify a broad distinction between the Indian and non-Indian insurer, for two reasons; first, the protection of Indian business, and second, the protection of Indian policyholders in the event of emergencies which are probabilities.

Right method of approach

Coming next to the aspect of the Bill in which it is not uncommon at the hands of my Honourable friend, the Leader of the House, to cancel one speaker against another where different points of view are taken, let me remind him that notwithstanding that paper cancellation these human beings will continue to exist and vote in this House and act otherwise as human beings. So that, I think that this is a somewhat drastic method of dealing with arguments. But let me point this out to him, which I believe he knows, having met in the Select Committee for a little over two weeks, as well as I do, that in a Bill of this kind there are bound to be a variety of interests affected. Undoubtedly, we are with the policyholder, about whom everybody seems to be his guardian, to the extent to which it appeals to him with reference to the rest of the interests involved. But, in addition to the policyholder, if you begin at the other historical end, you find the individual or the corporate company who began the insurance business in the first instance so that the policyholder may go to him in order that it may serve as,—if you so like to call it,—a custody house, a counting house or a business house. It is immaterial in which of the three ways it may be looked at so as to afford him an opportunity, an organisation, an institution, without which the policyholder, notwithstanding the beneficent value of the policy, would not have had the opportunity of getting a policy at all and securing to himself the benefit of that policy at the end of a certain period of time or in the event of a certain contingency occurring. So I think it will be quite wrong, in fact we would have a very wrong perspective, if we imagined that if we left the policyholders to themselves the insurance business will go on in this country. I think it can only be done, I quite agree, in the case of provident or mutual societies within certain limitations of which the House is fully aware. But generally speaking, you cannot but remember that notwithstanding the desire

to insure, notwithstanding even the small means to insure, that opportunity can only be effective through the instrument of some organization, whether it is an individual or a group of individuals or an incorporated company, even with a Managing Agent attached to him or dominating him. That is the next element that you cannot help considering. Next after that you have to consider the Managing Agent where he exists. Next after that you have to consider the Chief Agent and the brokers or the agents or field workers, etc., by whatever names they are called. And many of the speeches in this House, when closely examined, will point this out that it is not so much an effort, which I believe and submit to the House is the right way to look at it, at reconciling all these which will make in the end the business or unmake it, but an approach from the point of view of each single item or each single unit of them as if each of them was the sole and the entire prop of the insurance business would be a mistake. And this apparent inconsistency, therefore, has arisen from an undue emphasis from the point of one or the other of these several interests. The object of the Party which I have the honour to represent is to be able to reconcile these several interests; and in the end it is the wise reconciliation of all these interests that will make prosperous insurance business in India. And if we bear that in mind, among these thousand amendments which have been put in, most of them will be found to be overlapping, most of them are unnecessary, and most of them are attempts with a view to get some point of view nearer to one's end. And in that way I think the approach to this Bill must be made. It is no use saying that A, B, C and D, either a corporate body or otherwise, has to get the money of the person who has insured and that for that reason the existence of this body may be entirely ignored as if without any intermediate organization the policyholder would have any position in the insurance world at all. If we remember that there would be very little difficulty, I think, in appreciating the points of view

which have been put forward by different speakers in the House.

"Forcible conversion of the White into Brown"

The next thing which I wish to point out is this. Going back to the first point with which I started, namely, the broad distinction between Indian and non-Indian insurer, the purpose of which I have already outlined, I quite agree that we are met with this difficulty of the Government of India Act and the sections, to the extent to which they operate, from 111 to 116. This is not the occasion when I have any desire to appeal to my Honourable friends of the European Group that protections of this kind are very costly in the long run, and though, for the time being they may have a restrictive effect by way of forcing our hands where we may want to protect our own insurer or our own insurance business, let them remember that it is not that which is going to protect them as the goodwill which they must cultivate, and not statutory restrictions of this nature.

The next thing that I wish to point out is that I have the temerity to differ as to the extent of the protection afforded by these sections; and it is not merely protection,—the extent of a forcible conversion of the white into the brown, a thing which they normally do not like but which, for the purposes of this Act, they have very cheerfully adopted. For what is said is that though the white man may be incorporated otherwise than under our conditions, he may be treated as a brown man incorporated under the brown man's conditions. That I think is the rough effect of that section. Occasionally, therefore, they may remember that this colour bar has served them this time in a more beneficial way than the way in which they used the colour bar themselves. But though I have the temerity to differ on the exact extent and the manner in which this pro-

tection or anti-discrimination or whatever language may be proper to these six sections to which I think it is rather difficult to find a parallel in the legislation of any other country, the fact remains that with every wish that the Indian should have a square deal in his own country as against those who have hitherto exploited him, the difficulty which was pointed out which strikes me as more insurmountable than any other is one that cannot be resolved. The Honourable the Law Member pointed out that even if he merely disagreed and gave me the credit of believing that there may be something to be said for my point of view, even if a doubt exists whether any act of our legislature or any provision therein runs counter to the provisions of 111 to 116, under the Instrument of Instructions before assent can be given, it has to be reserved for His Majesty's assent. If that is all the confidence that they have in their drafting, I am rather surprised that all their care for six years has been so wastefully applied; for I think the House ought to be able to decide to what extent any of these provisions runs counter to the provisions of section 113 in particular and the two preceding and the two succeeding sections generally speaking. But if the Bill has got to be held up for His Majesty's assent by reason of a doubt which I have no reason to say is not honestly entertained, then the purpose of the Bill would considerably suffer by our insisting upon that clause. I owe an explanation to the House as to the origin of that clause; for it was moved by my friend, the Honourable Mr. Satyamurti, and undoubtedly the law permitted it. I even now would like to stand by that clause....

Mr. M. S. Aney: Every one of us would stand by it.

Mr. Bhulabhai J. Desai: I am only trying to explain my own attitude. I have no doubt that every one of us in the House would support me had he been able to resolve the doubt of those who advise, so far as the

Government is concerned. The position was that I happened to see or had pointed out to me a provision made in the Irish Act, very recently introduced into the Irish Parliament, to this effect, and the object was to secure, as a condition of being allowed to trade in their country, obligatory compensation for that benefit which was conferred upon them. I am also aware that that particular part of the clause was withdrawn from the Bill by reason of a gentleman's agreement, as I take it, between the non-Irish insurers and the Irish insurers, for, in that Act also, there is a definition of Irish insurer almost in the same terms as the present definition which is to be found in the report of the Select Committee. If such a gentleman's agreement could be arrived at in Ireland, may I not, going back to the point with which I started, ask whether the Members of the European Group here cannot still enter into a gentleman's agreement, so that any advantage which we can get from the non-Indian proper and the non-U. K.—as regards the rest of the insurers in this country—we, meaning the Indians proper, and the United Kingdom companies may not share the benefits of that ten per cent. reinsurance, and if that agreement can be arrived at, I have not the smallest doubt that no question would then arise of reserving this for His Majesty's assent at all. The one thing that stands in the way is the unbreakable silence of the European Group and an appeal to us that they have grown oranges in this country which has borne only one fruit and it is incapable of division. If that is the way they regard their Indian trade in India, I think they will find themselves in a very mistaken place in the growing conditions of this country. Let them remember that there may be more than one orange on that tree if they would like us to assist in its growth; but let them remember that even if one grew on it, it will have to be shared and shared and shared; and if they do not take that course, they will soon find that all appeal of having obliged India in the past will fall, not on deaf ears, but on ears that will hear and cannot respond. There-

fore, so far as 3 A is concerned, I quite agree that if the United Kingdom companies cannot and will not come to an understanding there is that difficulty as the result of the doubt which was raised, and I will leave the matter at that stage so far as section 3A is concerned.

As regards the rest of the Act, I wish to clear one misapprehension, may be a mere oversight on the part of my Honourable friend, Mr. Aney. I have not been a party nor the three other Members of my Party who sat on the Select Committee, to section 26 as it now stands on the question of investments. You will probably find in the note of dissent which we have signed that we do not accept that provision. I will take, therefore, the main points which have been placed before the House in their order.

Reconcile all interests

Taking first the question of deposits, the general feeling of those who belong to this part of the House, at least the general feeling as I know of those who belong to the Party to which I belong, and the general feelings of several others, whom individually I have had occasion to discuss with, is that in so far as the initial security is concerned, the House will take a step in the right direction having regard to the growth of insurance business in the country; for indeed when you will collect large sums of money coming in, belonging to others, some *bona fides*, some test of stability, some sense of security, not merely in those who would insure, but in those who want to lend a hand to insurance legislation, has got to come into existence before the business is allowed to be started. It would be quite wrong to allow the business to be started with a sort of office and a table and a telephone and an insurance agent to whom you might pay the whole 100 per cent. of the first year's premium. I think it would be entirely wrong if any such attitude were ever adopted in the name of national business and in the name of curing unemployment. Two

cries have been raised in this House, both of which I will have to respectfully analyse, and, as far as it may lie in my power, show them their value in their true perspective and true proportions. So far, therefore, as the quantom of the deposit is concerned, I find that the House is generally in agreement. The only point on which there was slight, a slight difference of opinion was whether to the existing companies sufficient time had been accorded in order that they might be able to meet the requirements of the new Act. A matter of that kind cannot be weighed in golden scales, while at the same time you must draw a line somewhere,—I mean if you went on in that foolish venture of an examinee at one of the examinations where I was examiner,—he says "what did it matter if I got 29",—I say "all right, that might do"; he says "one less 28 would not matter";—and I say "why not 25"; in the end, the argument resulted in this, he need not have got even a single mark at all,—if you went on in that fashion, it would be very difficult. I think in a matter of this kind, while it is impossible to provide any actual scale, some experience, some knowledge, a certain amount of common sense brought to bear upon it will ultimately produce the dividing line beyond which you may not go in the matter of indulgence. Speaking for myself, the period of seven years, roughly speaking, which is accorded, is amply sufficient. If the company is going to justify its existence, if it is going to have enough resources in order that its future business may be on sound lines, I cannot see why the line should be extended, but I must point out that there is a strong feeling based, I believe again, on the point of view of one of several interests which, I think, is a wrong point of view, for the position of those of us who occupy my and your position. We must, from the point of view of this kind of legislation, have regard to the reconciliation of all interests, and not pursue the matter beyond a certain measure from one point of view or one interest. At the same time, I believe there is, if the language of the Honour-

able the Leader of the House may be copied, a clamour for a certain longer period, but not exceeding ten. That is how the position stands, and I believe when the amendments under that head are examined, they may easily run into 30 or 40 if not 50 or 60, so that once that particular small point is resolved, I think most of those amendments would have been met.

"Home Company and Foreign Company"

Coming next to the question of investments, having corrected the oversight, the position that we maintained in the Select Committee, and the position which we submit to the House as being correct, is this. I am not one of those who is ashamed of learning either from Canada or from England or from anywhere else. It is a piece of good humour to say that a part is taken from Canada, a part from Australia, a part from England, a part from Bengal, it is a very great hybrid,—it is good humour, but I don't think it is a good way of sifting of knowledge. The true way to look at this matter is to learn from experience, and I believe the Canadians have made very good go-ahead insurers in a large part of the world and have been very successful insurers at that if we only remember how they have invaded our country, how many crores a year of premia they manage to send away, notwithstanding the fact that they have only two or three big companies in this country. And the distinction that is broadly made in the Canadian Act is, I submit, justifiable and right. At least half of them own kinship to my friends of the European Group, and they draw a distinction between a Canadian company and a United Kingdom company and a foreign company; all the rest are foreign companies under their Act. They might have done it as a result of reciprocal treatment,—when they get a large business, they divide it. We are obliged to adopt that distinction under more unfavourable and inauspicious and not very pleasant

circumstances, and circumstances, therefore, of force. The fact still remains that the distinction is drawn in the Legislative Acts of 1912, 1928 and 1932 of the Canadian Legislature. The broad distinction is between what one may now describe broadly, as a home company and a foreign company. As regards foreign companies, there is an obligation maintained that in Canada every foreign company should have a reserve liability, meaning a sufficient sum of money to cover matured and to be matured contingent claims at a particular point of time, and that money should be held in the hands of a trustee, the trust deed of which is to be settled by the Board of Trade or certain other officer under their protection. The object of that is,—in order that we may have a precisely similar object we may perhaps have to make suitable amendments to the extent to which it is necessary to bring section 26 or its successor in line with that,—the primary object of that is, first to secure to the Indian policyholder, against any of the funds not being available either by reason of the company failing in its own parent country or by reason of any other emergency which may put an end to the contractual relations between the two countries. As regards the home companies, there is no question of maintaining assets with any trustee. They undoubtedly remain, like every other company, with the management, *i.e.*, the assets are deposited with them under the control of the management, but there is this provision and safeguard for the benefit of the policyholders which, I submit to the House, should also be incorporated here, and that is what is called the life fund under section 8 under the clause, which is a little larger than the reserve liability, but which is a lesser amount. May I also, even at the risk of perhaps stating more or less obvious matters known to the House, point out that the total assets, where there is a corporate company, the total assets would be the monies paid in by the shareholders, undistributed profits plus all the money including the premia less of course the

expenditure,—less than the total assets would be the life fund as defined in clause 8 here, less than that is the reserve actuarial liability I referred to already earlier,—so far as the investment of the total assets is concerned, I think it is an error that the investments of the shareholders' money should be left to those in charge of the companies management to invest as they like or as they think proper, but when you come to the life or the reserve liability I quite agree the issue stands on a different footing. I am now talking of life insurance companies as distinguished from general companies. So far, therefore, as life insurance companies are concerned, my suggestion to the House is that it would be a proper thing to do to divide the life fund reserve liability into three parts, it may be either an equal or an unequal, it may be anything between 25 and 33 into what are now called guilt-edge securities,—the next which may be either 30 or 33 into trust securities, and as for the remaining, the companies should be allowed to invest as they think prudent, subject of course to the Superintendent disallowing any particular class of hazardous investments by which the policyholders may come to grief,—but with some such latitude it would be impossible or valueless to have conditions of this kind at all,—not that it would be utterly valueless,—perhaps it is a strong expression, but I may say not as valuable as the needs of the present insurance business demands, and the value of it lies in this. If only 2½ per cent. were to be produced by that investment, I think it would be an error to tie down that all investments should be made in guilt-edge securities. You have, therefore, a sliding scale. The next category is one which produces a reasonably larger amount, and the last which probably produces a little better nearer to five or six per cent. It is in that way only that the insurance companies have hitherto grown and prospered, I quite agree, to the benefit partly of the shareholders and also partly of the policyholders. That attitude I suggest would be the proper way in which section 26 can be dealt with,

There are two other matters which I wish to deal with very shortly. One refers to the question of the omission which my Honourable friend, Mr. Aney, chose to leave alone but which I do not think it right so to do, and that is the question of the limitation of commissions, because I am trying to use as short a phrase as I can as there is not time enough to go in detail into it. When amendments are moved, full language will be used for the purpose. There are two methods of assuring to the policy-holders safety in this regard. One is to determine what is described, very often, as expense ratio, the other is the limitation of commission. As regards expense ratio, I am afraid the difficulty that presented itself was not so much its propriety as how to arrive at such an expense ratio that it may not unduly hamper the company and yet at the same time will not take away too much from the money of the policy-holder. Therefore, the next best step has got to be recommended, namely, the limitation of commission. That question also has two aspects, competition at home and also competition from the stranger outside. So, from both points of view, I suggest that provisions may be incorporated on the lines of the original Bill, and that the clause which now stands be omitted.

That brings me next to the position of the Managing Agents to the extent to which you give life to them in your money. I have already heard Sir Hormusji Mody in his announcement to the House about the bloody one or bloodless one—I do not know which he has in mind, in any case, one or the other he feels is going to be at his throat. But I do not believe that there need be any blood in performing any such operation. The point shortly before the House is this. Here I think general opinion favours distinction between life companies and general companies. It is true to say that except two important companies the other life assurance companies which are now prosperous today have been initiated by promoters, otherwise, called

Managing Agents. Whether they have survived their utility or not I do not wish to wrangle about at this time, but it seems to be more or less common ground or taken for granted by this House, and I am no exception to that rule, that so far as life companies are concerned, subject to their existing contracts which I shall presently deal with, in future, for a life company, there shall not be a Managing Agent.

Life of Existing Contracts

The next question which naturally, therefore, would occupy the attention of the House would be to what extent the existing contracts are to be cut short. That is a matter on which a difference of opinion can easily exist, a difference of opinion about which we need not be fanatic at all. After all, if this particular form of the promotion of a company and its management is to be abolished you need not necessarily be fanatic about its going out or about blotting it out of existence tomorrow morning. At all events, give them time enough to read just their affairs in this life so that they may be able to answer for their sins in the next.

There was a three-year life which was in mercy granted by the draftsman of the Bill, or in the Bill as was presented here, and allowing him to continue in his voluminous takings during that period. The Bill as it has emerged from the Select Committee gives him ten years time but limits his cupidity, as one class of my friends would have it. I am one of those who cannot see eye to eye with either point of view and I am merely expressing a personal opinion. My personal submission to the House is that in all matters, while I think it is within the privilege of this House to get rid of all vested interests as and when they like, they might also consider that things are not so evil as they appeared at first sight to be, and whether they will be much better off later on under other conditions—I beg

to leave to you. I, therefore, submit to the House as purely a personal suggestion of mine that if you gave to the bloated Managing Agent a period of five years and if their contracts so exist,—of course, if their contracts do not last so long, there is nothing more to be said,—but if their contracts last beyond a period of five years, I believe that it would be an act not only of mercy but of justice to grant a period of five years. That is the suggestion that I make, midway between the suggestion in the draft Bill as presented and the Bill the Select Committee has submitted. I am not asking for a vote now. I am only pointing this out and I wish to conclude in three more minutes which are at my disposal. I may say that I do not suffer and have not suffered from too much education, in this case for two reasons. One is, living the life that we have done during the last ten years the din and noise and dust of the crowd—that is a matter to which we have got accustomed. We do not live in very sheltered conditions, and for that reason we had not been over-educated, though I quite agree that the time that we have had to live has not been very comfortable to some extent. Not because we do not wish to be educated but because I find that each one tends to see only one point of view over-riding the point of view of all other interests which must be reconciled. As regards companies doing other than life business, the Indian Companies Act may well be left to cover those companies. That leaves only the licensing of agents, and, so far as that is concerned my personal experience has been that some sort of check is necessary to the class and every growing class of what you may call unemployed. I have every sympathy with them from another point of view and in another place, but here I am not going to provide employment to the unemployed so that he may do whatever he likes with another ignorant man. So that it is wrong to plead in this case that I am killing any process by which unemployment may be relieved. But remember that employment may be

useful, but employment can also be so exercised as not to be quite beneficial to society. And if you distinguish between useful employment and perhaps a dangerous employment, you will easily see the distinction and the necessity of having a licensing agent. But I think my Honourable friend, Mr. Jinnah, will confirm me that in many earlier parts of cross-examination, whenever a man had no employment and we asked him, what he was, he said, he was an estate agent or that he was an insurance agent, which was another word for saying that when he could get hold of a gull he managed to get hold of his money. That is not the way to cure unemployment at all. I have no desire to curb employment, I have no desire to curtail honest employment, but all I desire is that it should not be done in a manner which would not be to the best advantage of the society which, after all, undertakes the problem *inter alia* of his unemployment. Therefore, I whole-hear tedly support the licensing of agents. In fact, I would have looked for some sort of qualification but inasmuch as I find it rather difficult to define.

An Honourable Member: You require a Barrister-at-Law.

Mr. Bhulabhai J. Desai: I hope that they have a better occupation. Personally it does not affect me. I do not happen to be a Barrister-at-Law nor am I an insurance agent. As regards the qualification, the point shortly is this. The question is whether qualification could be defined. I quite confess that it is difficult to find out any minimum qualification, though I may point out to my friends who argue the contrary that a large number of insurance agents in many parts of India have interviewed me and told me that an apprenticeship to those who are now working for one year and a certificate might be a good qualification, so that it is not beyond my imagination to be able to frame a qualification if one were necessary and as there is none in the Act except the recommendation of an insurance

company, I do not wish to lay any further burden of finding other qualifications.

The only last word I will say before I sit down is this that we wish to promote insurance business in this country to the exclusion, if we can, of any outside insurer who has insured up to now and to the extent to which that Act gives us liberty. I think this House should support such a measure and while remembering the policyholder every moment of the time and also the field worker, let us remember that there is something bigger than that—the reconciliation of all interests and the promotion of Indian insurance business.

INSURANCE BILL

2nd October 1937.

Sir, it is rather unusual that nearly the whole day should be spent on the third reading of a Bill, but I appreciate the occasion when a long, difficult and arduous task has been performed. While I am overwhelmed with the sense of criticism of what this House has achieved or failed to achieve, I have this satisfaction that every Member of this House has approached the Bill before it and he has not suffered for want of pressing the views from any point of view from which they emerged. I have not that proper sense of bitter humour or bitter sweet humour which characterises the Leader of the House and it is better, therefore, that I must confine myself to my own mode of expression of what I have observed and what at the end of this arduous labour I feel in regard to this Bill. So far as any personal praise in this matter is concerned, it appears to me that I am not quite fitted for the purpose of giving due expression, not so much because of want of language....

Mr. M. S. Aney: Of which you are a master.

Mr. Bhulabhai J. Desai:....but because I feel that it is far better to speak perhaps a sentence in which you have put in and concentrated all you wished to say instead of taking much more of your time. Apart from any question of political measures, in so far as the Indian Companies (Amendment) Bill was concerned and so far as the Insurance Bill is concerned, I would not undertake the task of supererogation of telling the House what is already known as to the unique abilities, the experience and the self-possession of the Leader of the House. But I have this greater satisfaction that in the case of these two Bills we were able, without much difficulty, to pool as much knowledge and experience as we possessed in order that we may be able to assist in a proper and effective legislative measure, having borne in mind the purposes of those two Bills. In that encouraging helpfulness of pooling our resources, I have great satisfaction in acknowledging what has been done by me.

"The Bill might have been better"

Bouquets of compliments can be paid and I have brought none of them, but I have brought a warm enough heart to the task which I am now to perform and which I, therefore, feel that we owe it to the House that, whether the public at large disagrees with us as to the measure and whether the parties, during the interval of the Bill, were disagreed as to the measure, we are all agreed today—at least I hope we are—that the Bill might have been better, if each one of our opinion had prevailed, we have to accept the common minimum reserve or the common maximum reserve in whichsoever way you may look at this matter. On that, I tender my felicitations to my Honourable friend. My Honourable friend, Mr. Susil Sen, as I have already said, produced a commendable Bill with the assistance of the draftsman and I must confess to a sense of small disappointment that out of 2,000 odd amendments, I was only able to allow, so far as in me lay, about 200 to

be moved. It is a guillotine of which my Honourable friend, Mr. Satyamurti, complained......

Mr. S. Satyamurti : I did not complain.

Mr. Bhulabhai J. Desai......while he talked about every body else. Though it happens that Mr. Ananthasayanam Iyyangar and Mr. Satyamurti are members of the Party to which I belong, I think it is right that we must acknowledge that their energy, their initiative and their industry contributed a great deal to the utility of this House. As regards my friend, Mr. Susil Sen, not only did he produce a commendable report but, since then, has worked hard to understand every point of view. To say that he and the Leader of the House were accessible is using very mild language for the simple reason that I think, occasionally, he has had reason to complain, a complaint which we on this side of the House, being public men, cannot afford to voice, that he was being too much educated. But for myself I feel that we cannot be too much educated though, at the same time, I must confess that you cannot, in this life, please every interest where conflicting interests in a measure of this kind are concerned. To any body who is disappointed either inside or outside this House all I can say is this that our endeavour has been for the larger cause of the purity of the business and for the advancement and growth of Indian insurance. In that, everyone of us has contributed a share of experience, knowledge, ability, industry and, to the extent to which he could, persuasion. In response to what my Honourable friend, Mr. Aney, said, I am not one of those who believe that any combination—and it was not a combination in this case—of those who say that two and two is five is good enough. I hope and trust that from my point of view, at all events, whenever I have made a combination with him or with my friends of the middle or my friends opposite, I have always believed that it was because two and two made four and that they ac-

cepted the same formula. I have no doubt that it is possible to say from the point of view of those with whom I did not combine that my sum of two and two made four was wrong, but I am glad to have the credit of at least not being misunderstood in any matter.

Sense of duty

Sir, during the course of this debate, I was the subject of many criticisms, many temporary elations, many temporary supposed victories, but, at the end of it all, what must prevail is a sense of duty irrespective of what others may feel as to the course that we are adopting, and I am glad to be able to say that so far as in me lay, so far as in those who work with me lay, we have tried to put forward our point of view and though it may be very much wished that as a Party we must express different views and though discipline may be called the complex of Hitlerism. I am one of those who believe that you cannot work in any organisation as a party without a sense of unity, without a sense of mutual restrictions on each other's views to produce the best results. It is only in that way we can work, otherwise dis-integration may begin which even those who wish it for the time being would in the end regret. Therefore, I am not at all sorry that notwithstanding apparent differences, and I welcome them in our Party myself, of course they are expressed with fulness of candour, enthusiasm and even vigour, but then here I do not object to any friends of mine telling me that he does not accept a particular judgment on the question on a purely personal view, but once it becomes a Party view we try to negotiate, understand, appreciate, restrict, deduct, add and, in the end, come to a conclusion. Having done that, we hope and trust that we shall continue to act in the same spirit and, if my Honourable friend, Mr. Aney, would want to produce a Hitler in this contry, we will give him a few lessons..

"To be Pro-Indian is not to be anti-anything else"

Coming to the question of the Bill itself, I only wish to say a few words. But before I come to it, Sir, there is the class of helpful servants of this Assembly—I call them servants in no ignoble sense, for they serve nobly and silently. I refer to those who assisted in collating these 2,000 amendments, so that we were able, every evening, to sit down the remaining three hours and perform our task with some regularity and be able, to present to the House, as time went on, with proper form—I refer to the Assembly office for having done the work with celerity. As regards the Bill itself, there are only a few words, which I wish to say, for I have already expressed my views on two occasions apart from short speeches which I made when the amendments came up before the House. I have a sense of disappointment that I have not been able to contribute to the extent to which I would have wished, had this been our sovereign legislature for the purpose of encouragement and growth of my country's progress in this direction. For indeed, it is a truism which I want all my friends here to appreciate that if to be a pro-Indian is to be anti-anything else, I think it is a misconception which if they in their own minds turn over, they would find it regretful to express the contrary. For, if a Britisher were pro-British I believe he is not anti-world. If he is that, then he may have a return compliment from me that I am a pro-Indian first and also last and to the extent to which we have power and authority which we find restricted and constrained, we will make every endeavour in order that we may progress in our country as they have progressed in their own, apart from the progress which they may have done in the rest of the world. So that, our points of view, where they differ, are points of view which I am quite certain they must appreciate and that is this. That we desire and we must desire, that if it were not difficult in this case that another interpretation of section 113 might have held

up this Bill, I still maintain that I would have ventured to submit to the House the definitions which I suggest and pass on that definition, if you like call it a discrimination in favour of my own country. For who is not patriotic enough in this world, who does not discriminate in favour of his own. It is all very well to be altruistic, to be international, but when it comes to actual business, I have not yet seen any single race dealing in politics of today, while talking of internationalism, who are not exclusively national in the advancement of their own interests. I, therefore, make no apology whatever for the point of view that I press with apparent bitterness which some of my friends saw when I spoke. My bitterness is only its value, when I feel strongly, as strongly as every Member of this House that my right to legislate for my country should not be restricted, as it is in the manner in which it is. If that is bitterness, I confess to it, but more than that, I think every friend in this House recognises that as a mere matter of human element I have never been wanting in friendship and good will to any single individual from whom I have had or I have received differing opinion which I have always attributed to be *bona fide*; if I claim *bona fides* for myself.

Coming to the other parts of the Bill I have only to say a few words. So far as I have understood the trend of this legislation, the points of view which have come before this House, a great deal more or a great deal less might have been done. You may have extended the life of Managing Agents, you might have more easily limited or extended the commissions payable not merely to insurance agents, but for other persons interested in insurance business. You might have got rid of or tightened by adding more qualifications to insurance agents.

"Impose restrictions on others so that we may grow"

You might have had, had I prevailed, better retaliatory measures in order that foreigners may not compete unequally

and unfavourably with ours. But, none-the-less, if in weighing these scales, we have made mistakes, they are mistakes in learning. As for those of our friends who came here—I am very glad indeed that our people have learned the art of business and the necessity and the value of propaganda, I am not afraid whether it is called the big business or the small business, the big bug or the small bug, every one who feels pinched in any matter ought to say boldly, and courageously and press his points of view to the extent to which he is able to persuade a diversified House of this kind. When the Companies Act was passed, when I returned to Bombay, they asked me whether I had produced a monster. I had to protest and say that if a monster had been produced, you go to Sir Nripendra Sircar. But, none-the-less, I told my friends that having seen a monster frequently face to face and in proximity, I think they were very much mistaken. The same remark might apply as regards a Bill of this nature. But the working of it will clearly show if any adjustments are needed, and if such is the case, I have no doubt that this House will, at an early date, set them right. But the principles on which they are based are those which may be recognised. Freedom is given for those who are strong, as my Honourable friend, Sir Leslie Hudson, said. We believe in publicity, but no restriction. Yes, I quite agree. If I were strong enough to compete on equal terms, I might perhaps agree to it. If I had learnt that art for as many years as his race had learnt it, I might have agreed to compete; if I had all the wealth and the resources of that race, I might have agreed, but we belong to a poorer race which has been suppressed for quite a long time, for many years dominated and impoverished and, therefore to the extent to which it lies in us we shall, if you like to say so, impose restrictions on others so that we may grow. I must remind my Honourable friend in this connection that during the last 14 or 15 years, ever since discriminating protection was passed by this House, we have reared at

least five industries, one which was the subject of discussion only last Monday, and I have no doubt somuch so that the complaint of my Honourable friend was, "Oh! he has a baby killing mania, because they happen to be weak". He says, now that you have more than enough sugar, you produce not only for your own consumption, but for export that is what they say. But my Honourable friends are denying me even the chance of being able to sell my sugar in another country. Our eyes are thus always turned to our brethren in the land. If we feel disappointed, occasionally, by your passing, what we believe to be, unjust retrictions upon us, you must not feel that the complaint is bitter. You must recognise its justice; you must assist in their removal if you mean what you say, as I have no doubt you mean what you say.

"Life—A matter of Compromises

Sir, there is only one word more and I have done, and it is this that in all legislative measures of this kind it is not possible to satisfy all interests, any more than it is possible to satisfy two suitors who imagine that each one has a claim larger than he has got. But, in the long course of my career in the Bar, I have, to a large extent, recognised that life is a matter of compromises; for indeed if each of us wanted to stand in the same place as the other, having the freedom so to do, it would be impossible. And it is impossible to prove that the compromise we arrived at is good or bad, because that can only be proved by an impossible process, and you must fight it to a finish and lose it when there is no question of compromise left, so that the value of a compromise depends on the judgment that you form as to the future and the confidence in your integrity and in the ability of those to whom that task is entrusted. In that spirit we have worked in the support of this Bill and in that spirit I commend it to the House.

APPOINTMENT OF MR. CHAMBERS

6th October 1937.

Mr. President, my Honourable friend, Sir James Grigg, reminded the House that he did not intend to speak in any provocative spirit, but not also at the same time in a spirit of penitence. It would be refreshing any time in life to find my Honourable friend being in any mood of penitence at all, for he recognises no mistakes and when I think of him it may well be said 'Mussolini cannot make any mistakes'. For his only justification was this. "I told you I have made no mistakes, but if I made any, I am not going to admit it and therefore you must not pass a vote of censure upon me." For let us examine the facts. He has told us that the gentleman—Mr. Chambers—has a short experience; then came the cryptic phrase which I do not know whether it made him more fit or less fit, he has a short but intensive experience.

Sacrifice of Mr. Chambers!

I know, Sir, of intensive cultivation, but I have not yet known of intensive education of the type that my Honourable friend has in mind. But the fact he did not deny, was that this gentleman was in receipt of a salary of £400 per annum, that is about Rs. 5,300. He is going to get only seven times, that is Rs. 35,000 per annum. What a colossal sacrifice this gentleman is making in coming over to India? Why not my Honourable friends in this House get up and admire the great sacrifice of this gentleman? The truth of the matter is that he was not in a spirit of penitence. That is also why he was not in a spirit of provocation. How good he is! First, he cannot justify the mistake and secondly he cannot admit it. But let us examine this matter a little further. In all things which were regarded as experts at one time, I should

like to know how the British people themselves have created these experts. I believe, that if we should always get up and justify in this House the process of administration that is being carried on by them in this country, I am afraid we will never be able to create anything at all. That is precisely the very object from beginning to end. If the Britishers during the course of their time by means of their income-tax laws, by means of their administration, by means of discovering their blunders, if they have created this great genius of a Chambers during the last fifty years or a little less perhaps during which time income-tax laws have been administered in this countty, I at least was hoping that we would create not merely Chambers, but Griggs, because I am not thinking of these small petty offices, I was thinking of something better. Indeed when I cast my eyes on the progress that Indians have made in situations where these fetters, these discretions and these choices do not exist, I wish to remind them that when I began at the Bar, there were 20 leading European Members, but at the end of thirty years, I am glad to be able to inform my Honourable friend that none of them now seeks to get any work, at all events in the Bombay High Court and I am told the same thing has happened in all other Courts. That is so far as experts at law are concerned. I may also inform him that, in so far as I was just looking at the list of Acts and the amendments that have been made during his regime—many a case which has been decided by the Privy Council argued by Indian experts showed up how much they understood the income-tax law and the way in which they pass their Bills and their amending Bills here.

Vicious Circle

Let us not, therefore, talk now in terms of unreality, whatever friends who still have that inferiority complex may imagine, whether in the realm of law, whether in the realm of medicine, whether in the realm of applied sciences or whether

in the realm of engineering. My friends who sit behind them and applaud what their front benchers say, or at least some of them might have a little more examination of themselves and see what expert knowledge they have evolved as a result of giving opportunities to their men. Of course, if they deny that there is any potentiality in Indian genius, they will vote against this motion but at the same time they might recognise that they may doom themselves for ever. It is a vicious circle into which we do not wish to fall. You will not give us an opportunity and therefore we cannot learn; and because we cannot learn, therefore we connot get any opportunity. If this is the kind of thing that is going to happen I am not going to lend my support; and that is precisely what the Englishman is here to do. He constantly reminds you of your inefficiency but he never allows you to acquire efficiency. So that in that vicious circle he wishes to let you remain; and to those who believe that that is a good circle and a virtuous circle, that they wish to remain and condemn themselves always as inferiors, who do not believe in their potentiality but always will continue to serve their masters,—to them I make a present of the support of this motion. Because, you must recognise that if we are going to progress on the lines of self-government, the only way to progress is a trust in the potentiality of Indian experience, of Indian knowledge and Indian genius. They were saying a short while ago, "what is the good of giving you self-government? You cannot govern." They were in fact hoping that the elections would fail; they were also hoping about the ministers,—it is rather difficult to describe their state of mind, they hoped and feared both,—they were hoping that these fellows would not take up ministerships; and they were afraid that they would not take up ministerships. And if they did take them up, they say: "We are willing to conduct ourselves, we are willing servants, co-operators and regenerators". If that is what they really mean, one thing that I ask the attention of the House to is this, that it

is not merely a question of assertion in the matter of words; it is time that we began to realise that it is only by suppressing us or making us believe in our inferiority and accepting that inferiority, as some of us do, that you have remained where you are. They have evolved income-tax laws and income-tax administration. What happened in 50 years time, I have asked the same question when it concerned the railways; I have asked the same question when other branches of administration are concerned; and the only answer is that because you allowed them to boss you they will continue to boss you. And now it is time you began to recognise that you can do the job as well as they can. This "white man's burden" is a thing which it is time were stopped. Who asked these gentlemen to come here and sweat in this country in order that they may draw their petty salaries and their small pension? I wish any of those gentlemen who has any resignation in his pocket may forward it to my house. Let them not talk, therefore, of this "white man's burden", this superiority and this greatness and this expert knowledge to be found among them. But I know it is good to complain, it is nice to complain. After all, you must explain away what you take away. And therefore he says, "But am I not suffering in your cause? Am I not conferring blessings on your country: Am I not getting all your income-tax money?" As if there was any relation between the growing of the income-tax and this great Mr. Chambers. This sort of padding speech is what I am accustomed to at the Bar, but I thought my friend knew a little better. He first began with a large subject, this income-tax, the Niemeyer report, money must grow, and therefore,—a logic which does not appeal to me,—Mr. Chambers must come. I hope they have a little more respect for their own intelligence, if not for ours.

"Humiliated and Ashamed"

This kind of justification which has been put for-

ward by Sir Muhammad Yakub makes me somewhat humiliated and ashamed. I understand Sir James Grigg but it is impossible to understand pious words not backed by action. It is very easy to say, "If it is a question of European against Indian I am with you, but if it is a question of this European as against another Indian, I am not with you. I should like to understand this logic; I have tried to understand the logic that has been put forward......

Sir Muhammad Yakub: With the bias that you have you can never see my point or the point of any other Mussalman.

Mr. Bhulabhai J. Desai: Sir, the question before the House is to attempt to answer, and I must answer to the best of my ability, those who have supported Government in this matter, and if my Honourable friend is rather unhappy about it, I am very sorry. But I can only take him at his word. He says, "Oh, but I am always for Indians against Europeans". Then is this Mr. Chambers an Indian? I thought he made a mistake; he must have thought so because what comes about experts? Every day you can use that expression, from handwriting experts to the experts who sit on the other side, who generally sweat, who are bereft of their families and serve under great difficulties. But really it is time that they ceased to confer their great blessings and their great labours and confer less of their privations upon us. We have asked them to do so, but they insist on foisting on you their services on very impoverished and difficult rates. That is what we do not want. The short point before the House is this. I see now from the trend of the experts who are imported in anticipation of the Federation, which may still not yet come, that whatever we have done in the provinces, it is time that we began to strengthen the European element in the services in the Centre. For

whenever I have met an Indian who was in one or other Department of the Central Government, and I say, "Where are you going from your leave" he says, "C. P.". Another man, "I am going to Bombay." I begin to scratch my head; and I may tell my Honourable friend that I am not one of those, nor are these others who ever draw upon the despicable disloyalty of others. But I daresay you know men. I daresay they tell you what is happening in the Government of India. It is no secret that a man who was here either as Under-Secretary or as something else is sent somewhere else; it is no secret as to where he is going to be posted: it is no secret how many of them are asked to go on a little leave which they need for a little overwork. Each expert from abroad only adds one item to the pack of sardines which you are importing and each and each and each makes them all; and it is that pack of sardines against which we must protest. Whatever threats may be held out to Government servants they may be well deserved and they are part of the Official Secrets Act under which they are bound to maintain secrets. He and I both desire that they should be kept; but that does not mean that when people come out from foreign countries there is only one source of information....

I, therefore, say that we must set our face against exploitation of this kind of which you have, according to my humble submission, a bare-faced instance, when a man earning Rs. 400 in his own country is being brought here on Rs. 3,000.

ADDRESS TO LAW STUDENTS AT POONA

31st November 1937.

I addressed the law students of Poona many years ago when Mr. Gharpure first started his great venture. I congratulate him on the inaccuracy of his language in calling

this a cottage. I wish that in the seven lakhs of Indian villages, we had some more cottages like this where men, women and children could live but that is merely a matter of a piece of good humour.

I am very glad indeed to meet you again after many years; probably I am meeting the next generation; the generation to whom I talked when I was here last time are now probably lawyers of consequence in this city and the generation that is now coming forward has the future in their keeping insofar as citizenship, or citizen life is concerned.

I was wondering as to what might be the proper thing to tell you, whether I should enter upon a somewhat serious abstruse subject of jurisprudence or whether I should take up one of the actual subjects with which you should be concerned for your examination or whether I should talk to you to a certain extent on what ought to be your outlook on life, both professional and personal. The last appears to me to be much more appropriate than attempting the role of Mr. Gharpure and his colleagues. It may be that from the point of view of examination I may not give you anything worth-while at all. But it is one thing to pass an examination and it is a different thing to apply the knowledge which we have acquired for the purpose for which it is intended.

Many years ago, there used to be a very healthy custom in Bombay where annually the Chief Justice, the rest of the judges, many lawyers and all the young men and women of the Law College used to be together to celebrate a function to which we gave no name but where one of the members of the profession was expected to deliver an address. It is not much to my credit that the last address which was delivered of that series was delivered by myself. Since then I do not know what has happened to the succession of lawyers, that welcome custom has been discontinued.

I propose to devote a part of the time that I shall be with you for giving you as good a definition as I can, it is more a description than a definition, of what I understand to be law and I also propose to tell you in the rest of the time your obligation to society, both as students of law and afterwards as practitioners of law.

When I was in your place, the book that used to be taught was Austin's Jurisprudence and also Holland. Law was there defined as the command of a sovereign with a sanction behind it and an injunction to the subject to do or to omit doing a particular act to which was annexed a punishment of some kind or other by reason of the sanction that the sovereign possessed. To the extent to which the definition went as a rule of conduct for life I have no quarrel, for indeed no society can exist as a social institution without recognising the rights, without respecting the rights either to the person or to the property of every individual that composes that society. Therefore it is perfectly true that it becomes the primary duty of every sovereign to prescribe the rules of conduct which are less than ethical. This sphere we must for the purposes of this discussion exclude. The social well-being of society is the main purpose of the injunction to do or not to do any particular act in the larger interests of the body to which you belong. This is an important qualification because if it was merely an injunction for the benefit of society, as it happens to-day in this country, a mere voluntary action depending entirely on your consciousness, would not be law though to me it is the higher law. That would not be law in the sense in which you are being taught the law. The important condition of the existence of the law that you are being taught is what you may call the coercive processes of society by which if you depart from that law, you are compelled to conform to it or suffer

the consequences. The essential distinction between ethical law or the law of consciousness and social law of the State is that insofar as the latter law is concerned, it has behind it the strength of the State, the power of the State or as it is sometimes called the arm of the law with a view to enforce obedience.

About four or five years ago, I commend it to the attention of law students here, three or four lectures were delivered by Lord MacMillan on the essence of what I have called law from the point of view of the State because it largely depends upon what you call "Sovereign" that makes the law not merely its utility and not even its sanctity and you may easily understand it if you begin with the conception that I gave you. Let us take a practical illustration.

We will assume that a sovereign is an autocrat and that his will is law. The definition would undoubtedly be satisfactory because he has behind him the power of the State and through its medium he is in a position to enforce obedience to any injunction either to do or not to do which he deems beneficial to the State of which he is the head. You then realise its limitations at once for you may have what you may call a sovereign who is very beneficient intending to do good to you and having all the power in himself to give the injunction as to your line of conduct but he may easily be succeeded by another sovereign who may not take the same view of his obligation to you or he may easily conceive that to be good for you which he thinks is good for you but which may not be really good for you. In other words, the value of the law, notwithstanding the sanction behind it, depends upon the source of law and ultimately it depends on who constitutes the sovereign that makes the law.

Sovereign Will

In most of the modern states, the sovereign will is

expressed in one form or another by those who are representatives of the people at large and to the extent to which the sovereign will is expressed by the representatives of the people you get nearer and nearer to a true conception of law which every member of society even without coercion would consider his obligation to follow and obey. To the extent to which your representatives make the law for you it is obvious that there are two conditions which should be satisfied. The first is that they naturally express what is good for you and secondly inasmuch as they are your representatives who have made the law irrespective of the coercive processes of the State it becomes your duty, your obligation, to obey the rule made by your representatives. In other words, the source of law is the real ultimate test of the value of the law from the point of view of society to which you belong. The nearer that law is made by the society at large through its own representatives the nearer it reaches both in value and in sanctity so far as obligation is concerned. This raises a very grave issue which this is not the time nor the place to argue or discuss about but you will easily see from that source and from this analysis of the law that where more and more power and authority are concentrated either in an individual or in a group, greater and greater is it removed so far as sanctity of obligation is concerned from the point of view of a citizen.

Take for instance the last Civil Resistance Movement. I want you to understand and examine it purely as students of law for that is my only purpose in trying to explain this aspect to you.

During the last Civil Resistance Movement I was often asked questions by many lawyers and by many administrators of the law and indeed you will find the platitudes reach not merely the lower courts but the highest courts of judicial pronouncements, namely, the Privy Council which

decides appeals from India. Of course for the moment being administrators of the law they do not bother as to the source of the law and only raise the question whether you have obeyed the law. In one of the judgments which arose out of the Civil Resistance Movement, that is to say, disobedience of the law, deliberate or voluntary, they said that "those who live by the law cannot break the law," a phrase which caught the minds of many lawyers who did not give a thought to it at all. They seemed to imagine that it contained such a profound wisdom that there was nothing more to say about it by way of analysis. They forgot that the Privy Council intending to maintain the present source of law, namely, the British Power, had to say that whatever they thought fit to maintain the society in its existence should be law and therefore those who practice the law should conform with the rule that if they do not obey their law they were not fit to practise the profession at all.

I would like you to follow the analysis a little further, purely as students of law so that you may see where the catch lies. It is true it is a good phrase that 'Those who live by the law should obey the law' but the catch lies in the fact as to who made the law and for what purpose? If I conceded the right, say, to one individual to make all the law for the conduct of every citizen of that society so long as he is human he will declare everything to be the law which maintains the autocratic concentrated power and authority with that possessor. And if it becomes duty in that set of circumstances to obey the law there is no means of removing the concentrated authority from the hands of one man and hence you will see that in course of time under international law when a successful revolution establishes a new Government that Government is called 'Government established by law'. In other words there is an immense amount of limitation, examining it purely from the point of view of jurisprudence, over the duty of a citizen to obey what is called law to the extent

to which it is made by citizens for the benefit of the citizens and to the extent to which obedience to law leads to the progress of society and maintenance of its integrity. But if you carried it to the extent to which most of my friends who argued with me during the last ten years have carried, you will get into a vicious circle and get an entirely wrong conception of law. If you must obey what is called law made by one to sustain his power over you it will be impossible to displace that sovereign so that you must reach the stage where without breaking the law of that particular sovereign you cannot establish a new sovereignty in any form or shape that you desire. You have only to look at the English history for the ultimate disregard, ultimate abandonment of the Divine Right to rule. It is common to find sovereigns claiming Divine Right to rule in order to maintain authority over their subjects. Here in India also many sovereigns claimed that Divine right. You know that some Rajput princes claimed descent from the Moon and some from the Sun. A sovereign by a psychological process so numbs the social mind that they accept what he says believing that it is drawn from another Power and thereby imposes his authority.

When society wakes up

The authority that is claimed by the British Parliament is 'For the good government of this country'. Its origin is conquest by them. It is called 'Government established by law'. Therefore while you are practising the law purely in a court of Law, that is to say, the Courts as they now exist, your standard of law is merely to take what is there prescribed, put a meaning upon it and test by it whether a particular individual is right or wrong but you will be quite wrong in supposing that that is the final test of law. Law is often put to the final test as soon as society wakes up to its own right. Curiously enough either in Roman History or in European History, there are exactly two

opposite conceptions of law. There is the Divine Right of Kings where the individual with power behind him wants to impose the law upon his subjects in order to maintain authority. And there is the other, Vox Populi, Vox Dei. Now which of the two is right? Is it the Divine Right or is it 'the voice of the people is the voice of God'? In other words, where is the Divinity? Therefore as soon as society wakes up to the idea that they are not merely automatons in the hands of one superior authority but that they are makers of their fortune or unmakers of their fortune—as we have hitherto been—they become makers of law. In other words, revolt against law by a sovereign authority who does not express the will of the people becomes then a law unto yourselves. We are often deceived as to the true conception of law itself. I am here to point out to you that in its essence, if the sovereignty resides in the people at large, the same definition will again exist that the sovereign will command either an act or a prohibition with a sanction behind it.

If you read carefully the lectures to which I have drawn attention, he, Lord MacMillan, lays down this more or less. That law, notwithstanding its definition, should be a rule of conduct for the citizen with a sanction behind it, and that law will become nearer and nearer the true conception of law as the maker of the law gets nearer and nearer to society itself. Therefore let us all understand that what we have hitherto been deceived into as obedience to the law is a misconception, a delusion and a fallacy when it comes to the larger aspect of the citizen's life. From the point of view of society at large it behoves you to display a little more courage and not be deceived by the kind of analysis that 'those who live by the law must obey law'. In other words, the lawyers must be slaves.

We were hypnotised

We allowed ourselves to be largely hypnotised and

believed it to be our duty and function to support what was not really the rule of law in the name of law and with our own hands, with our own friends and with our own brothers they broke our own heads. Undoubtedly everyone of us owes allegiance and obedience to law where that subserves the progress of the people and the maintenance of liberties of those for whom and by whom it is made. To obey that law is a great social duty. But what they call law, a law which stands for the suppression of personal freedom, personal duty, for the suppression of the rights of association, for the suppression of one's conviction, that is not law. During the last Civil Resistance Movement, taxes were gathered from the Indian taxpayer, the Indian was employed as a constable, the Indian was employed to cut down wood to make a lathi and the Indian head was broken. You ought to analyse that to see how much you were wrongly hypnotised. In all human history, power has never come to the people without disobedience of law in some form or other. Therefore let us not in an emergency imagine that there is any sanctity attached to the law made by another for the maintenance of his own authority and when once you realise that I think you will understand the three-fold distinction. There is the ethical law which is law of your own conscience to which no sanction is attached except your own ideas of right and wrong. There is the law made by a society for its own benefit by its own representatives, the society being its own sovereign, in other words, the people rule themselves. And there is the law of either a group or an individual, either foreigner or your own countryman, who have concentrated all authority and impose the law in order to rule you. Therefore, it is the source of the law which makes it either sweet or a poison and not the name of the law itself.

Lawyers' obligation to society

There is one other aspect to which I wish to call

your attention. Every one of us as a practising lawyer is paid a fee, small or large, for protecting either A's property, A's freedom or A's honour, and we do it with a great deal of enthusiasm, even more than due enthusiasm, almost disproportionate even to the remuneration. But has it ever struck those who live on the society and who are therefore called parasites that they may for payment fight for the freedom of an individual but that they also owe an obligation to the society to which they belong and on which they live? Is it not their obligation to fight for the freedom of the society itself? While as individuals we protect property for payment, protect freedom for payment, protect honour for payment, as a class have we ever attempted to protect the property of our society? Patriotism is not a dry word, it is an obligation that you owe to society. You attach sanctity to private property but where comes the sanctity to your own country ?

The higher function of a lawyer and it is that alone that gives dignity to the otherwise sorry profession is what he owes to society, namely the freedom, the honour and the sanctity of the property of his land possessed by himself. I would appeal to you to make it your future duty.

Limits of individual judgment

A few months ago I happened to be addressing the Lucknow University and Dr. Paranjpye who is the Vice-Chancellor and who presided, lest I should, according to him poison the minds of the boys and girls, got up and said, 'Friends, you must remember that we cannot surrender our individual judgment to anybody, we must think for ourselves, we must maintain independence of thought and ideas' and in that strain he went on for quite a long time and then I had my chance. I said 'Yes, gentlemen, I have no objection to individual judgment, but I think this sort of thing has been overdone and there is such a thing as co-ordinate

action in human life where individual judgment does not play any part whatever. Imagine an army where every soldier said 'I don't agree with you' what will happen to that army? I don't take away from you individual judgment, but when all individual judgments have been pooled and you come to a decision, there must be a co-ordinate action without reference to individual judgment. You have acquired a great deal of emotion and knowledge but what you have not acquired is the will to act and a spirit of co-ordinate action. You know what is right but you dare not act on it. For people who have not the courage to act, it is a very convenient excuse to say 'Oh, I don't agree'. 'I have no faith in non-violence' and so on. In this connection, I am very often reminded of a story which my mother used to tell me. In those days there used to be what they called Pandit Sabhas where lots of people well-versed in Shastras used to carry on discussions and one of the Brahmins of my village happened to go to that Sabha. He came back very jubilant and the village thought he had succeeded. After a day or two, things settled down and the villagers began to ask him 'Krishna Maharaj, did you succeed?' He said 'Yes, I did.' Then tell us what you discussed? He said 'I agreed with nobody.'

Society cannot exist by what you may call the logical extension of individual judgment. It is a bit of a folly if you carefully examine it. I therefore appeal to you as budding lawyers or actual lawyers or even as past-lawyers that you must have a correct conception of the law and the limits of it and secondly that you must have a clear conception that in addition to duty to yourselves you owe a duty to society to retain its freedom without which no country's freedom is achieved or maintained and if you remember that it may be less learned than a lecture on estoppel but it will be much more useful in human life.

COMMUNISM INVOLVES VIOLENCE AND CLASS WAR

December 1937.

Not Suited to India

Addressing the post-graduate students of Politics and Economics of Bombay colleges at the St. Xavier's College, Mr. Bhulabhai Desai said :

The capitalist world has begun to realize partly through the influence of State and partly through the influence of education and organized labour itself that the time has arrived when they cannot treat labour, human labour, as a mere commodity and that every honest citizen has a right to live so long as he is prepared to labour for his existence.

Russian Revolution

When labour is treated as a commodity, the capitalist or the owner of means of production naturally says to himself "Well, I will keep as much as I can and give to those who seek employment as little as I can as they are at my mercy, but he forgets the human factor. Hence arose the conflict between capital and labour which during the last 150 years has been accentuated to a very large extent in industrial countries. In agricultural countries it has not come to the same condition except that one cannot ignore that in Russia and in India the question has acquired considerable intensity of consequence. Human institutions do not work always by logic or by prudent cold-blooded solutions and hence the Russian Revolution. In all revolutions of this kind, the human mind looks for a principle to fight for and the principle behind the Russian Revolution was a principle of the application of freedom in its most logical extension both in politics and economics and in the personal relations of man and man and woman. Whoever tyrannises

Destruction of Private Property

That being so, there was no means of attaining Communistic society, except by destroying private ownership by the use of force. Anybody who resisted it had to be forced out of society, upto the point of his death. There is no other way of doing it. That is how the Russian Revolution has been brought about, so that while, on the one hand, Communism may be a desirable state of society its attainment by the means by which it has been attained is something that ought to occupy our attention, at least of those who are concerned with practical politics. I am bound to confess before you that when I have put this problem to many Communists, the only answer which has been given to me is this : "It is true that without the use of force and rigorous force and force without any feeling of mercy of any kind or sort it is impossible to bring about Communism by reason of this impulse to labour for private property now, because man is so brought up that in another environment the children that will grow in the future by the mere force of the new society into which they were born would have a different impulse. One may easily differ from such a consummation being so easily attained. Therefore, while Communism may be a desirable state of society, an ideal state of society and may be achieved if achieved at all by evolution, to us the question is whether it is worth attaining by the means by which alone it can be attained, namely, a war of destruction between those who own the means of production and the rest of the society, and having created that struggle and having destroyed the owners what will happen to the future progress of that society, it is entirely for the student of the future.

Believing as I do that the evolution of human mind and human consciousness is not likely to take such a rapid course as that man or woman will labour only for society, with the same degree of energy, with the same degree of enthusi-

asm and with the same degree of skill, whether that will happen as a miracle. I personally beg to leave to you, and inasmuch as I doubt that, my own surmise for the moment is that to carry out a war between capital and labour to-day is not going to leave society any better, at the end of such a fierce struggle. I, therefore, still ask, while admitting what you may call the evil consequences of Capitalism, may we not attempt a mitigation instead of entering upon a struggle. Reconciliation of all elements of society is a better process towards the ultimate task of Communism. A class struggle will result in the destruction of one and as soon as you have finished destroying, you may easily find human nature again the vicious circle over and over again without any apparent good. I am one of those who stand for reconciliation of those interests always remembering that my point of view is on him who is unemployed, my attention has always been on him who has not the minimum means of living for I decline to accept that human labour should be treated as a commodity.

Reaction against Communism

There is a reaction against Communism, for take the example of a country nearest home. According to the professions of the Japanese, he is fighting the present war in China because he alleges that Communist Russia is and has been for some time dominating both the mind and to a certain extent the politics of China and, therefore, he says—at least the Consul-General for Japan attempted to explain to me—that this to him is a war of self-defence in that Japan is opposed to Communism. I need hardly tell you the theory of Mussolini. I need hardly explain to you the policy behind Hitler's present Government. So far as those countries are concerned they are definitely anti-Communists. In England, the Capitalist has conceded so much to labour that it might be very dicffiult to lead a labour revolution in that country. Not only has a living minimum wage been

established but with Old Age Pensions, Accident Insurance, Sickness Insurance and every other form of amenity translated in terms of personal wealth has been added to labouring classes that they may well wait and hesitate whether they are going to be better off if they are working with the same factories with themselves as owners. In America you see the great experiment carried out in the interests of those whom you might call the poorer section of American society.

Reconciliation

My conclusion, therefore, is this. That the removal of medieval serfdom did not really restore to labour freedom in its true sense. It was a freedom of Hobson's choice. Then came the struggle between capital and labour because human labour came to be regarded as commodity. Now everywhere there is an attempt even in self-interests,—for after all labour will strike and even the means of production may remain idle and both may have the pleasure of starving,—at reconciliation. So far as our country is concerned, remember that the problem of industrial labour is proportionately not so much as people would have us believe. Of course it is intense but for the country at large that is not the intense problem, for the country's problem is the problem of land. We should make every effort to bring about reconciliation between Capital and Labour, and avoid class-struggle.

THE INSURANCE BILL

8th February 1938.

Mr. President (The Honourable Sir Abdur Rahim) Motion moved:

> "That the amendments made by the Council of States in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration."

Mr. Bhulabhai J. Desai :—Mr. President, I shall confine myself to the amendments on which criticism and advice have been offered by the Honourable the Leader of the House, and I do not use the word 'advice' in any cynical spirit at all, for I am aware that the wisely regulated wisdom of the Elders has not materially altered the Bill as was passed by this House. Wisdom indeed, they possess, but I wish to emphasise the wise direction which was given to them from time to time. Any-way that has really shortened the sphere of the activities of this House on the second occasion on which the Bill has been returned.

Dealing with clause 3, sub-clause (2), item (*f*), the House will remember that as the Bill was then passed, the obligation imposed by that clause was in terms wider than what it is today. Clause 3, sub-clause (2), item (*f*) reads now :

"a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer, the assured rates, advantages, terms and conditions to be offered in connection with life insurance policies, together with a certificate by an actuary that such rates, advantages, terms and conditions are workable and sound."

The noticeable omission there is that the Elders have limited item (*f*) to life insurance business, whereas when the Bill passed this House it referred to all forms and kinds of insurance. I am not aware exactly, why or in what way the limitation took place in the Upper House. But I wish to call attention to the necessity of bringing back item (*f*) as nearly as it may be practicable to its original condition having regard to the terms of clause 41 of the Bill. Clause 41 reads :

"No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in India."—

—Notice the words that follow 'lives'—'or property in India',—

> "any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing a policy accept any rebate except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer."

Sir, that clause of the Bill can only be applied successfully and usefully if either in the prospectuses or tables of the insurer, every item of insurance business and the normal premium relating thereto have been published. Otherwise you will find that clause 41 would lose most of its value if item (*f*) is limited only to life, and it is for that purpose that we have felt it our duty to see that the clause was brought back to its original form, namely as being applicable to all forms of insurance.

During the course of the discussion, it however transpired that, whereas there would be little or no difficulty as regards fire business, as regards accident business, at least in reference to workmen's compensation and to motor insurance including third party risks, it was somewhat difficult in a practicable sense that a schedule of rates can be filed with reference to marine business and other miscellaneous businesses relating to accidents. We have been able, Sir, to perceive the propriety of excepting those parts of insurance business in which the filing of these rates might be attended with grave difficulties, and there is every prospect that when we come to this clause and when the amendment is sought to be moved attempting to bring back item (*f*) to its original condition, we shall agree, and I hope the House will agree that the difficulties which are pointed out with reference to the filing of scheduled rates as regards those items of insurance business as impracticable would be then excepted from the operation of the clause. Item (*f*) would then run

practically in the same form as it was before, with the exception that I have mentioned. That would probably satisfactorily meet both the amendment of item (*f*) and also the practical working of clause 41.

As regards the amendment relating to clause 40, I should beg leave of the House to say a few words not merely because of what fell from the Honourable the Leader of the House but also because of the larger considerations which it involves. I am aware of the manner in which, at least in two or three instances, the sections of the Indian Companies Act relating to prohibitions which were regarded as salutary in public interest as well as even before this Bill has been passed into law, some of its provisions are sought to be circumvented and ingenious devices are being found in the hope that they will escape the penalties provided for in the Indian Companies Act and in the present Bill when passed into law. During the course of the discussion that took place, I beg leave to suggest without unduly straining either the patience of the House or even the patience of the Elders the object both in the Indian Companies Act as well as in the present Act can be met, at all events, fairly successfully if in clause 40 of the Bill, if not now, at a later stage, words 'directly or indirectly' were added after the words 'pay or contract to pay'. That clause would then read :

> "*No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay directly or indirectly any remuneration, etc., etc.*";

because it appears to me that all these devices from the point of view of any tribunal can always be met if the word 'indirectly' was added. It is true that it becomes a matter of evidence to discover whether the intervening screen was real or whether the intervening screen, that is to say whether "O" in the illustration given by the Honourable the Leader of the House was a real person

or was a dummy. And from the very balance-sheet which he read out it would be perfectly obvious to any tribunal dealing with this matter that 'O' was absolutely a dummy. That is to say, where company X could not lend money to company Y that the prohibited transaction should be carried out through the intervening agency of 'O', a mortgagor, and who would then tranfer the loan on a mortgage from the company Y and hold it for the benefit of company X and thus, prohibited loan would be given keeping within the letter of the law. If the words "directly or indirectly" were added this transaction will attract the penalty of the Act.

"Ethical Considerations do not prevail in business"

Coming back to the present Bill, the instance that has come to my knowledge is that individuals are being employed on large salaries to supplement the commission payable to their friends or dependants who are insurance agents. Undoubtedly this happens in the case of unscrupulous insurers, but legislation without attempting to distinguish between the scrupulous and unscrupulous (if it is indeed not possible so to distinguish them) aims at eliminating cases where it can be evaded, cases where the law is attempted to be defeated. It may not happen in what people call themselves respectable companies ; and I have no reason to believe that all companies will not, to the extent to which it is possible, act respectably in conformity to the law. But the fact remains that as soon as a device is pointed out, it is a temptation which some resist and others do not resist : and my Honourable friend, Sir Homi Mody, will probably say that human frailty is the other way about ; that if a device is found it may easily be availed of and that ethical considerations do not generally prevail in business.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) Quite right.

Mr. Bhulabhai J. Desai: That being perfectly right, as I have been assured by the representative of business houses, I think the House should be careful to employ every possible means to defeat such devices. An instance which has come to my knowledge is that a man who otherwise is not probably worth Rs. 100 has heen employed on Rs. 1,000 a month, the object being that the insurance agent who is behind the screen is to that extent in a position to get added remuneration in addition to the limitation which we have placed upon him. That is the manner in which it is sought to be defeated. My suggestion is that if the words "directly or indirectly" are added a case like that can be easily and nearly always met. I agree that there may be a case on the border-line where the tribunal may not be able to come to a decision that the particular employee,—I will also call him 'O',—is a mere screen to add to the limited commission allowed under the Act or a real person worth Rs. 1,000. But once the word "indirectly" is there, every company would have to be very cautious before employing a man and giving him a salary out of all proportion to his business ability. That is the shortest way in which the matter can be met and if it commends itself to you and to the House and, the Leader of the House, it is the easiest amendment which will carry out the object we all have in view.

It is common ground that it is no use passing an Act if it is going to be defeated by some device which has occurred to us before it has become law at all. One may have other exigencies and circumstances to wait for amendments as it must arise in Bills of this kind and I would not mind waiting myself; but if this amendment could be carried without pressing any other amendment on the paper before you,—adding the words "directly or indirectly" in clause 40,—it will serve the purpose, and I do commend this to the House. But after all is said and done, when you come to examine cases of this kind, if

they are patent they will be discovered, but if on the other hand they are on the border line, one may give the benefit of doubt to the employer and not come to the conclusion that a highly paid individual is there only with the object of evading the Act.

There is also another consideration which I wish to point out with reference to what fell from the Honourable the Leader of the House. I know a very historic case which took place with reference to one of the biggest banks we had in Western India which unfortunately failed. There the evasion was in a manner quite as ingenious, if not more ingenious, as the one illustration which he gave, with reference to what may occur in the case of an insurance company. A large amount of money was either lent to the directors or had been already expended in large speculations in a metal which is somewhat dazzling, although not quite so dazzling as gold. When it came to the fatal 30th June, promissory notes to the tune of some 32 lakhs by apparently respectable gentlemen were placed in the possession of the bank's officers, thereby representing that the bank's monies were invested in sound securities. And it went on not merely for one audit but for five audits before the bank actually failed. Therefore, while we are aware that law is and may be evaded in cases of this kind, that does not and should not render us entirely helpless and to the extent to which we can provide against the evasion of the law we must do so; because, law is worth making a law only if, as far as in us lies, we prevent its evasion and defeat the purpose of the evader.

So much with reference to clause 40 and the amendments relating thereto. As regards the other amendments they are of a nature which does not require any detailed examination. And I must confess, speaking at least for myself, that in a measure of this kind difficulties will appear in course of time during the working of the Bill, and I

hope the Government will not be reluctant to put in a short amending Bill, if one were called for, either for the purpose of meeting an evasion or for the purpose of removing a difficulty found in its actual operation. I recognise that it is a new piece of legislation on a subject on which legislation, such as there was, was more or less sketchy and of a very superficial character. And notwithstanding many disappointments and many successes. as each Party looked at this measure, the fact remains that though we have not been able to satisfy every single interest concerned in this Bill, whether the interest be Indian or non-Indian, and whether among Indians where there are different interests,—I am quite certain that there is a general feeling of satisfaction,—though sometimes not openly expressed but always privately and sincerely admitted,—that the bill has taken a step in the right direction in placing the insurance law on as firm and sound a footing as it was possible to do at this stage of Indian Central Legislatures.

THE INDIAN RAILWAYS (AMENDMENT) BILL

9th February 1938.

Mr. President:—Amendment moved.

"That the Bill further to amend the Indian Railway Act, 1890, for a certain purpose (*Insertion of new section 42B*), be circulated for the purpose of eliciting opinions thereon by 1st January, 1938."

Mr. Bhulabhai J. Desai :—Mr. President, I rise to support the motion for circulation, and I shall briefly enumerate the different provisions of the Act and the stage at which the transitory condition of the Government of India stands today. The point which has got to be borne in mind in order to appreciate the necessity and the value of circulation is what I may call shortly the transitory stage at which the Central Government of India stands today, and it is

only when the full implications of it are understood that the thin end of the wedge, whether intended or unintended, which is sought to be put in by means of an apparently innocent looking Bill, for which the Mover today gave no reasons whatever as to its immediate urgency or requirement, will be apparent.

The object of this Bill requires examination, It is stated thus : This Bill is intended to remedy an omission in the Indian Railways Act of 1880. Therefore, this Act worked for 48 years without requiring an amendment of this nature. I think the Mover might easily be laughing, at all events, in his cheek, if he had realised the case he has made or has dared to make before this House, after a period of 48 years. He has not made it part of a regular Bill relating to the Railways which might be examined in all its bearings by the House. The Statement of Object and Reasons further says:

The Act contains a provision that gives Government the power to prescribe maxima and minima rates and fares for railways in India. Government has, however, exercised this power since the beginning of railway operation, over all railways in India, irrespective of whether they are owned or managed by itself or by private companies or by *Indian State, local authorities, or provincial governments. To give this* power of the Central Government statutory recognition, until such time as a new Federal Railway Law is passed, or for a period extending for five years after the Federation, an amendment to the Indian Railways Act has been found necessary."

To any one with a modicum of common sense, it must be obvious that the reason given here cannot either bear examination or that there is more than what is contained in the reasons given here. I may claim to say this, that I have rarely approached measures merely as a matter of suspicion because they emanate from the opposite side but undoubtedly when a measure of this kind is put forward and when even circulation of the matter is so far as I can see not intended to be agreed to the suspicion

even if it did not exist is bound to arise in the minds of Members of this House.

Let me state what is the transitory position in which we stand today. Part VIII of the Government of India Act; 1935, beginning with section 181 and ending with section 199, has not been brought into operation and the House will see this from the Order in Council which was made on the 18th December 1936:

> "Whereas by section three hundred and twenty of the Government of India Act, 1935 (hereafter in this Order referred to as 'the Act'), it is provided that the provisions of that Act other than those of Part II thereof shall, subject to any express provision to the contrary, come into force on a date to be appointed by His Majesty in Council for the commencement of Part III thereof, but His Majesty in Council is empowered to fix an earlier or later date for the coming into operation of any particular provisions of the Act:
>
> And whereas by the Government of India (Commencement and Transitory Provisions) Order 1936, it was provided that the provisions of Part VIII of that Act,"—(*which is the part which is now material for the purpose of consideration by this House*)—"should come into force on such dates as His Majesty in Council might thereafter appoint."

No necessity for a piecemeal measure

And, so far as I am aware no order fixing the date of this Part has been made in terms of that Order in Council. The transitory stage at which therefore, the Government of India stand today is that Part VIII is not in operation, and therefore the situation is that the Government of India today has the same powers as otherwise existed under the Railways Acts and the powers accompanying them are corollary thereto which have been hitherto exercised by the Government. It has not been stated, even as a reason for this Bill, that any difficulty has arisen because of the power which has hitherto been exercised by the Government of India to fix maxima and minima rates for Railways of all types; I do not wish to go into the detailed

description which is given in this Statement of Objects and Reasons for that purpose. It would, therefore, appear that it is an anticipatory preparation for an occasion as to the date of which neither the House nor anybody else nor even the Leader of the House with his astrological knowledge is in a position to pronounce. Therefore, it is the astrologer alone who knows when and under what conditions Part VIII will come into operation. If that is the situation, what is the excuse for occupying the time of this House in trying to rush before it a measure conferring one particular item of power upon a Federal Railway Authority which has yet to come into existence and not merely come into existence as a matter of formation or organization, but come into existence as the result of the first step to be taken, *viz.*, putting into operation Part VIII of the Government of India Act? You will see from the powers and authority of the Federal Railway Authority when Federation comes into existence, which are to be found in section 181, that these are material for the purpose of considering the reason why this House ought not to agree to undertake this measure at this stage:

"(1) The executive authority of the Federation in respect of the regulation and the construction, maintenance and operation of railways shall be exercised by a Federal Railway Authority (hereinafter referred to as 'the Authority').

(2) The said executive authority extends to the carrying on in connection with any Federal railways of such undertakings as, in the opinion of the Authority, it is expedient should be carried on in connection therewith and to the making and carrying into effect of arrangements with other persons for the carrying on by those persons of such undertaking:

Provided that, in respect to their powers under this sub-section, the authority shall be subject to any relevant provisions of any Federal Provincial or existing Indian law, and to the relevant provisions of the law of any Federated State, but nothing in this sub-section shall be construed as limiting the provisions of Part VI of this Act regulating the relation of the Federation with Provinces and States.

(3) Notwithstanding anything in this section, tne Federal Government or its officers shall perform in regard to the construction, equipment, and operation of railways such functions for securing the safety both of members of the public and of persons operating the railways including the holding of inquiries into the causes of accidents, as in the opinion of the Federal Government should be performed by persons independent of the Authority and of any railway administration.

So much of Part X of this Act as provides that powers in relation to railway services of the Federation shall be exercised by the Authority shall not apply in relation to officers of the Federal Government employed in the performance of any of the functions mentioned in this sub-section."

And you will find, Sir, when you come to the subsequent sections that there is a provision made as to the extent of the control that would be given to the Federal Legislature on the questions of policy relating to railway administration, notwithstanding the fact that executive authority is conferred on the Federal Railway Authority. It has been pointed out—but it requires a little more explicit statement,—it has been pointed out by my Honourable friend Mr. Santhanam, that the Act itself contemplates that a question may easily arise as to where the proper line is to be drawn between policy and matters of executive authority and provision, therefore, has been made in the Act that on that opinion of the Governor General shall be accepted or shall be final. But before we have yet come to the stage where the Act has come into operation, before the Federal Railway Authority is formed, and before a question has arisen whether or not a particular matter falls within this matter of principle or falls within a matter of the executive authoritv, it is sought practically to be defined by this Act that, in so far as the fixing of maxima and minima rates is concerned, it is not a matter of policy but it is a power to be conferred on the Federal Railway Authority without any question or examination,—whether it is a matter of principle; what, if an issue is joined, will be the decision of the

Governor-General, and, apart from the question of joining the issue, without finding from all the sections in the country, either trade or the ordinary traveller who would be interested in the decision of matters of this character as being either the customers of the railways or as providing the capital for which interest is to be paid from the revenues to which it contributes, what they think: and it is somewhat difficult to understand why today in respect of a matter which has gone on perfectly smoothly for forty-eight years and until the Federal Railway Authority is brought into existence, this Bill is sought to be forced on this House.

A Comprehensive Measure Necessary

It has also to be considered, when you come to think of it, that there is another matter. It was contemplated at the time of the Parliamentary Committee Report that there would have to be an Indian Act dealing with the whole field of railway authority, based undoubtedly on the powers which would be laid down in the Constitution Act. The few sections of the Constitution Act undoubtedly lay down the principles, and whereas a complete or comprehensive measure is necessary for that purpose, if at all a section of that kind were needed, it would have been perfectly easy for the Parliamentary Act to have included in it this particular section, in which circumstances it is true that this House would have been perfectly helpless, but the very fact that it was omitted from the Parliamentary Act is sufficient evidence or testimony to the point we are now making, *viz*...that it is a matter entirely within the sphere or intended to be left to the sphere of this Legislature after considering the points of view and all the provisions that such an Act provides. I would like to call attention to paragraph 393 of the First Volume of the joint Committee's Report in which this matter has been dealt with:

not, it is somewhat of an irony that their instruments in India should come before this House and ask us to sacrifice what little of personal liberty is left in this country. And, notwithstanding the Khan Bahadur who wanted to shed light, possessing none himself, and said that he did not care for principles,—he only wanted to laugh at them,—and that he was a realist, I call all gentlemen of this type and method of thought not realists but opportunists. And, therefore, so far as we are concerned no gibe either by him, cheap as it was, and no ridicule or amusement attempted by the Honourable Mr. Maxwell will in the least degree deter us from asserting our right first and foremost on the ground of principle.

The Bill aims at what was frankly and rightly admitted by the Honourable the Law Member as creating a crime of an act which has never been regarded as a crime even in India hitherto. Wars have been fought before including the last great war, and the Government of those days was not so unwise nor so tactless as to introduce a measure of this kind for the purpose of getting recruitment in India. It seems to me somewhat unfortunate, as one of the newspapers remarked a short while ago, that some senile military leaders in this country and some senile civilians still exist who believe that by a generous dose of repression they will get loyalty from this land. It is that type of men alone who could have conceived the unwise course of getting the opinion of India before the rest of the world as to the way in which they feel as members of what is called the British Imperial system; but I am glad that they would have a good dose of it by the time this Bill is finished. I am glad only for this reason that but for their tactlessness there were other methods of enlisting the sympathy and assistance of India if ever a war was of such a nature that the Indians had approved of it.

Novel Argument

Therefore, first and foremost we stand on the firm

ground that an act which otherwise had been regarded as innocent and has no parallel as being penal in any other country is being made penal here and we will not assent to that. And what was it that the Honourable the Law Member said? He said: "Oh, yes, it is new but we can always create new offences." I daresay he can. If those behind him ask him to draft a Bill that the existence of every one of us here was penal, I hope he would not get up and say: "We have power to declare anything penal and therefore, we shall use the power for that purpose." It is an extraordinary and novel argument. I expected him to say, "We cannot support it in principle but the circumstances of the emergency as conceived by those for whom I am now rendering a valuable service require me to act as their mouthpiece for this purpose." That is a thing which I can understand and appreciate, but I cannot possibly allow him to lend the weight of his dignity of age and learning to a cause which he cannot possibly believe in. And let us examine what it is that is sought to be made penal, because of all points it is always the point of principle on which we shall stand. A man is free to enlist himself or not; another man is equally free to give him whatever advice he likes. And yet solemnly this Government comes here and wants to make it penal. Shall we make it penal that they should corrupt a man by asking him to fight for another man's liberty?

I think it would have been an infinitely better measure if the Government of India were by a law prevented from recruiting any Indian for the purpose of fighting for a British cause and keeping India subject all the time.

Existing Law

After all, what is it that you want to do? The law of the land—sections 503 and 349 of the Indian Penal Code—lays down clearly that you may not by criminal intimidation prevent a man from doing what he wants to

do or making him do what he does not want to do. Section 349 lays down that you may not use force for a similar purpose. Therefore so far as the present law is concerned, threat, coercion, intimidation and force are all ruled out. It comes then to this, that the law which you want is that though there is no intimidation or coercion or force, you are at liberty to corrupt an Indian by offering him a paltry 20 or 25 rupees in order that he may die for your liberty or your cause. We want at least this modicum of liberty that we should be able to tell him that he should not do so even by persuasion. It is one of those laws which, if ever it is put on the Statute-book, will be one of the blackest—never mind what amendments may be carried. It is for that reason—and that reason alone—that man may not persuade his fellowman to exercise his right to do or not to do what it is in him right to do—that you want to make penal that right—I think any man who assists in this ought to be ashamed of himself. We have known what it is you are making penal. Have you ever thought about it? After all I am not using any force or intimidation. If I do the law is there ready for it, but I cannot go to an Indian and tell him: "Look here, this is the view that I present to you: it is not to your interest to lay down your life for a mess of pottage"—yet you come here and tell us: "Why do you not give your assent?" I am free to admit that I am one of those who, during the last election in the Punjab, made a speech something like this—which nothing and no law will prevent me from making: Sikhs, Muslims, Jats, many of them demobilised soldiers, used to be present at our election meetings; and I have told them something of the history which I learned: one of the causes of the French Revolution that they taught us at your English schools and colleges was the returned Frenchmen who took part in the American War of Independence: the reason being that they began to realise what it is to fight for independence; and I did address them thus: "I say, my friends, you fought for

England's freedom, risked your lives for 25 rupees a month and perhaps a little food. Have you ever given thought to the question that the freedom of your own land is certainly worth a little more than 25 rupees a month?"

Compliment to Opposition

I assure my friends on that side that whatever law they may make, they will not get my assent to the right that they wish to enjoy, notwithstanding the supposed selfish motives with which this House was regaled by a little amusement—we want to maintain this: it is not a question of whether you are going to have an Indian army or a non-Indian army; and if that is the manner in which this issue is regarded, it is a great compliment my friends did not think when they were saying: "Oh, but for this law there would be no Indian army", what a compliment you pay to our public spirit and to our power and influence with our own people! Have you realised that? For what else could you mean when you say that if I were free to dissuade my men not to join the army, according to your logic, they would not join. The result, therefore, is the rarest compliment ever paid to the people whom we represent—the India of to-day. Yes. If we can assist to make an Indian Army, not by force, not by threat, not by intimidation, but by an act of persuasion, not to join an army which is neither broadly Indian nor used for protecting India's freedom, I think we would have achieved the greatest goal of our lives. Therefore, what you thought was a fright is a folly; and though you may scare this House by telling them that if this Bill were not passed there would be no Indian army—they can think that if this Bill were not passed there should be no Indian army—but that is the way in which we regard the matter—as one of principle: and we regard the matter of principle very rightly too.

Honour, not Crime

There is another point of view. Why is it, I asked myself in examining this Bill, that this Bill has been brought forward? Is it, if this Bill is passed even by a small majority of this House, to enable you to tell the world that India is behind you in the next imperialist war? Is this the purpose with which you have brought forward this Bill or I would really like to know whether you are afraid of the persuasive power of the Indian patriot or whether you want to create a false impression in the rest of the world? On both of these I am here to tell you you are wrong. If we have the persuasive power, notwithstanding your Bill and my friend, the gallant gentleman, in his anxiety, talked about death as a penalty—let me make a present of that idea to him and I hope the Honourable Mr. Ogilvie will move an amendment to that effect—it will give us really the chance of a lifetime to be able to tell our fellowmen that we are prepared even for the punishment of death. Therefore, take it from us that the point is a narrow one. You acknowledge and you are afraid of the power of persuasion which we acquired, and it is for that reason that you say "dissuasion is a crime". To you it may be a crime—to us it is an honour. Undoubtedly it used to be a crime even to ask for the freedom of this country.

Patriotic Acts

Fortunately during the last quarter of a century it has ceased to be a crime—not because you would not like it to be a crime but because you dare not protest or put it to the test; and it is for that reason that first and foremost I shall not assent even if I were the only Member of this House to a Bill which is making penal of that which is an honest and a patriotic act. Let not my friends remain under any delusion that in the absence of this Act there is going to be no Indian army and, therefore, we support it. It is a delusion under umts which you suffer:

it is an argument which you do not understand; and it is only an argument by which you may excuse and salve your consciences. But I cannot. I for my part stand for this: that after all I have a right to persuade my men not to do a thing which, as human beings, they are free not to do. He is not obliged to accept your 25 rupees and risk his head in a war which he does not believe in........

An Honourable Member: 18 rupees.

Never mind what it is: it is a paltry sum in any case.

1914 and 1938.

The point is this: that if the Indian people have learned by now that though they were willing to risk their heads and belongings in the last war on a faith and promise which was never carried out, you are now beginning to realise that they are beginning to understand what it is that they are asked to enlist for. It is not the 1,70,000—it is 12 or 13 or 14 lakhs which is at the back of your mind. But take it from me that the Indian of 1913 and 1914 is not the Indian of 1938. He is a different man. Why should we assist, even if we are obliged to sacrifice our liberty, in order that you may succeed? A great deal was said about the *Pax Britannica* and the beneficence of the British Empire. I will only call attention to some salient points—particularly to one or two which my honourable friend, Mr. Aikman, and others mentioned—out of deference to the speech that he made. The point shortly is this:

Bombay Meeting

In the war of 1914, Sir, I have a vivid recollection as to how,—if you must use the word "loyalty",—our loyalty was purchased, our loyalty was influenced. I was one of those, and I daresay there are some others in the House,—probably my friend, Mr. Jinnah, also was there,—who gathered in the Town Hall......

Mr. M. A. Jinnah: I had the honour to differ from you very much on that occasion.

Yes, I will presently point out what the difference was: the difference was not in the direction in which he is now moving, but in the opposite direction. I hope and trust that he will remember the principles he then preached and will not go back upon them,—but I have no desire to enter into an argument *ad hominum*,—I have an argument of my own with which I wish to deal, at least to the extent I can, to establish the issues which I wish to make for the consideration of the House,—but the fact remains that we were invited to the Town Hall in Bombay, and we were solemnly told by Lord Willingdon, for whom undoubtedly neither of us had very much affection.

Mr. M. A. Jinnah: I do not know about you.

Mr. Bhulabhai J. Desai: I know very much about my friend—anyway I think it is very unjust that we should enter into personal dispute. We stand on principles, and I hope my friends, assuming it is necessary to justify any position, will do so on matters of principle,--but I was merely on the question of issue. We were called together and told,—'Here is an Empire engaged in a big war, and after all, what is it being fought for?' This was during the middle of the war when the thing became more and more tense, when recruits and money were both required, and, I believe, on the following day a meeting was to be held in the Town Hall of Bombay for the purpose of inaugurating what was called the War Loan. At that time a message was read out to us purporting to come from Mr. Lloyd George who then successfully began what was called the great drive for national protection. And he said; echoing, I believe, the words of President Wilson,—that this is a war for the salvation and liberation of the subject races. On that promise, on that hope, on that inducement, our loyalty was called into being, and we did everything, inclu-

ding Mahatma Gandhi, we did everything in our power, to the extent to which our ability and resources permitted us, to support that war. What came out of it then? Can we trust that this is a war from which India has anything to gain except merely that we should lend our men, our money and all our resources in order that your proud Empire may once more remain intact? That is our objection to the Empire idea. It is not a mere idea,—it is a matter of principle. We have realised by experience, bitter experience, experience learnt at great cost of loss of lives, loss of men and money, that the Empire only means this,—that there shall be some one who will be the person to rule everybody and the rest will be the subject races, and those, who had the strength not to remain subject races, were by the Statute of Westminster, for all practical purposes, allowed to clear out of this show. The only thing that is left of the Empire is England as the master, India is the biggest subject race, and a few other small countries in many parts of the world. If this is the kind of Empire that you want us to defend, we regret very much that even if we were willing to sacrifice our personal liberty in a cause which appealed to us, this is certainly no cause which appeals to us, because we have realised the result,—and that is the kind of war for which you want that this Bill should be passed in order that more recruits may come in. And then consider the attitude of England.

Runciman's Mission

Referring to my friend, Mr. Aikman's speech, what did he want us to do? He said: "Oh, England has the same prestige." Well, I am not concerned whether she has the same prestige or not. He knows exactly what it is. And he instanced the mission of Lord Runciman. It is the fifth piece of political treachery I can think of. I wish my friend had not brought it up. It is not a question of strength,—I am not bothered about either the tiger or the old woman or the

old man or the rich man or anything else, but the fact remains that at the end of that war England came out richer in the subjection of other people than she had been before. That is what we had fought for or were induced to fight for, for the Empire remained with mandates. What that mandate means is a matter on which my friend had a lot to say, and on which I shall say only a few words when I came to it. But that was the result of the Empire, —added subjection of races who were not otherwise subject to that Empire.

Then, the League of Nations began, and we were asked to join it. But as soon as we joined it as an equal member, it struck the Prime Minister of England that it was altogether a dangerous thing. So they made a uni-lateral declaration binding upon us that no matter between India and England as regards their inter-dependence can be brought before the League. That was the first act.

Brave Englishman

Next came Manchuko, liberty of free people, not merely the liberation of subject races, but subjecting people who were free, and that is what you are assisting in. That was the next. Then came Ethiopia and the sanctions. I remember very well being present in the House of Commons when the withdrawal of sanctions speech was made by the then Foreign Minister. I happened to be in the gallery, and he said this: 'We admit, gentlemen, that it was a wrong, but we could not right the wrong without fighting a war, and we are not prepared to fight the war'. That is the brave Englishman. But why need he be brave ? He said: "I have got all I have; so long as I can get the other people to fight, other people acquire other Empires, they must acquiesce in my maintaining my own". Well now you are having another scene enacted in Spain, and the last scene of all is the one to which my friend referred, and let me read to him a passage as to how Lord Runciman is regarded by those whom it is

going to pinch. This is the report from the *Times*, of its Prague special correspondent. This is what he says:

Not Honest Policy

"Lord Halifax, in explaining Lord Runciman's mission to the House of Lords recently, compared the problem to be solved in Czechoslovakia with those of reconciling peoples of diverse race and blood, which have so often confronted the British Empire. This shows how greatly the issue is misunderstood in the outer world. If it were only a question of solving the grievances of the Sudetan Germans how simple would the matter be! But it is not. The Sudetan Germans are Germany, and Henlein is Hitler. The issue is not the treatment of the Sudetan Germans; the glittering prize is the political control of Prague and Czechoslovakia, the reduction of the Czechoslovaks to the status of hewers of wood and drawers of water for the Germanic family which they had until twenty years ago...."

In other words, you want to send a man to demoralise the Czechoslovakians who wish to fight for the integrity of their State. If that is the mission, I can well understand it. I can easily understand that England does not wish to fight a war so long as other people take other peoples' properties and not England's. And, therefore, I am not one of those who are going to be deluded by the idea—'Oh, we are the makers and the keepers of the world peace'. Yes, you are the keepers of other peoples' body and soul and properties. Then you say: Oh, India will be engaged in the next war, you are going to defend India's liberty. You are going to defend India as the property of England. That is your definition and idea of defending India. Therefore, when you talk of defending India, say that you are defending your property, the India, instead of saying "defending India", and I shall be the last to assist either of the two hypocrisies for which this war is going to be waged. The first is, let me keep my Empire so long as you can get an Empire somewhere else. With that I have no quarrel. And says Mr. Runciman: 'You must, after all, realise that I am here to prevent a war. You have got

to fight if you don't come to an agreement and so on, and the real reason is also well known to my friends. France openly declared in a meeting that if Czechoslovakia had any issue on this we will fight the war. England at the same time was called upon to make a declaration of of policy. They said: 'You are very unwise people, you will not listen to our advice. We have nothing to do with you. You fight your own.' Now that is not what I call an honest world-peace-maintaining policy at all. Nor does it redound very much to the prestige of the great country of which my friend speaks. But the fact remains that apart from the question of principle it is not a matter—and let us not delude ourselves with the idea.

Bolting the door after the horse had run away

I come to my Honourable friend, Maulana Zafar Ali, and my Honourable friend, Mr. Ghulam Bhik Nairang. They say, we do admit that Britain has used her forces against all Islamic States hitherto. There are no two opinions about it, but my Honourable friend says, we must have an Indian army, and then when he was asked, and quite rightly asked, but supposing that Indian army, what you call the Indian army—to which I shall come in a minute—were used against some of these very States, he says, "I have my card, it is inside for the moment, it cannot be shown". But my Honourable friend, Maulana Zafar Ali, said more explicitly, and I should like to read to the House so that he may see the paradise he lives in. This is what he said:

> "He agreed with the object of the Bill to punish attempts to dissuade any one from enlisting in the Army, but when it came to the question of using these recruits for Imperialist purposes, for blowing up Palestine or bombing Waziristan or the dismemberment of Arabia, the Bill would be mischievous."

As if my friend, after the Bill is passed and the would-be recruit becomes a soldier—his advice is going to be used. Let him not flatter himself.

(At this stage, Maulana Zafar Ali Khan rose in his place.)

I do not give way. His advice will not be taken; nobody will bother about it. My Honourable friend may remember that this is not the kind of spacious argument that can satisfy any man of common-sense. You may argue as you like. You may vote as you like, but do not tell us, "Well we agree with you, with the grievances which you and I have in common". You seem to think that you have the strength to prevent those grievances being perpetuated in the future. It is perfectly obvious that once the army under any excuse is mobilised in this country my Honourable friends would not be asked—they will not be asked when the war is declared, and of course what the strategy is going to take place, as to where and how the war is going to be fought they won't consult you. But my Honourable friend believes in the wisdom of bolting the door after the horse has run away. He believes in the wisdom of remaining in a paradise of his own where in an illusion he believes almost by the power of some magic or some other process, as soon as they come to Palestine, as soon as they do anything which is called Muslim in any form or in any shape, there Maulana Zafar Ali will wipe away the British army from going there.

Maulana Zafar Ali Khan : We will act and not speak.

Mr. Bhulabhai J. Desai : Let us face the facts, let us face the facts as men, let us face the facts like reasonable men. The fact is, if you do not do it now, if you forfeit your first right and principle of persuading a man to do the right, you would have sold yourself and your country's freedom outright and once for all.

Let us not be fools again

Then we come to the Indian army. Yes, it is an Indian army, only Indian in one sense of the term. That poor India pays for it, and poor India provides the fodder.

For when it comes to officering it Indians do not exist, When it comes to using it, Indians do not exist, their consent is not required. That is the Indian army to which you are going to lend your support lest that Indian army should disappear. Allow me to tell you in voting for this Bill you are committing an atrocious crime on liberty, on civil liberty, knowing that the laws which exist in the country are quite enough for any legitimate purpose, for any legitimate suppression, for any legitimate prevention of force, intimidation or any other non-permissible means. But what you want to do is this. You want in advance to declare to the world. Therefore, we won't agree to it on principle. You must also remember as my Honourable friend, Mr. Asaf Ali, has so clearly made out,—have you found out why recruits are not coming, on the assumption that they are not coming? The only defence pointed out was this. I remember when the Criminal Law Amendment Bill came there was a whole book of speeches circulated for the purpose of justifying those provisions which were incorporated in it, including the provisions which my Honourable friend pointed out were temporary provisions in that Act. My Honourable friend, Mr. Ogilvie, tried to refer to a speech but he dared not produce it or it did not exist. I do not blame him for it because he was told probably by the C. I. D. My Honourable friend said there were 150 meetings, 75 speakers, Youth Leaguers, Communists and so on and then he sat down. Such meetings are held today for public purpose, for teaching India the first principles of political science. The Government realise that there is no justification in fact for this Bill. But there is this one justification for their apprehension and that is this. That the Indian man is not going to be hireling of the future. It is that which is their fear. They have begun to realise, notwithstanding my Honourable friend to the contrary, who said, "We want to sell our cotton". I hope he will keep it to himself. But if there is going to be a war I do not want that our Indians should lay down their lives as they did before,

like fools, like dupes between the years 1914 and 1919. We shall no longer be the dupes of this Empire. Therefore, the grounds on which we put our case are obvious. They are grounds which have no distinction between Hindu, Muslim, Jew, Parsee or anybody, and allow me to tell my friends that I am not going to imitate what they told me. It is not a matter of any personal dispute so far as we are concerned. It is not a matter of our saying 'No' because you say 'Yes'. We have often gone behind you wherever any of your measures were those which supported a nationalist policy. We have no *amour propre*, and I refuse to accept the challenge of my Honourable friend, Maulana Zafar Ali, when I have no perpetual or any quarrel with him either. He can do exactly what he likes, he is free to do what he likes. He told us, "Oh! these Congress people. The Government want our vote. You want our vote"—like a coy maiden being wooed. What I want them to realise is this—that this idea about determining or stabilising factor is a very poor idea indeed. And I wish to tell you this. I quite agree that 55 hired individuals are available and a few more might be useful. But when the whole House is elected it would be a different story. If I have asserted my principle and if it is lost it does not matter. If you assist me in asserting the principle, well and good and, if not they may certify the Bill. But those days will some day go; this House will be an elected House. Then this question of stabilisation and wooing the coy maiden would not arise. Therefore, may I tell you, do not draw lurid pictures of things. We respect your vote. We want every vote of every man in this House, but not as a matter of quarrel, not as a matter of dispute, not as a matter of bargain. You stand for the right, I stand for the right. We are both agreed that the use of these armies has been put against Islamic States. But I do not want to put it on that ground. I put it on the ground, whether a State be Islamic or Christian or any other,—so long as the people are free and want to maintain

their freedom I shall not be a party to deprivation of that freedom by the use of my men and my money. That is the broad basis which we have set to ourselves, and that is the broad basis by which we shall stand.

Dirty job for Punjab Government.

There is one more point which I wish to deal with and which my Honourable friend, the Law Member, dealt with. The fact remains, examining the speeches of Mr. Ogilvie, of Mr. Maxwell and others, that there is a faint whisper that the Punjab Government requires this:

In the first instance, even if it were true and even if it were demonstrated by any despatch between the two Governments produced for our benefit here, I would still say that it is a matter in which you cannot hustle and rush this House. There is such a thing as the rest of the country. May be you get more recruits in one area than in another and, I hope and trust, that Punjab does not exhaust the rest of India from any point of view and every point of view. Therefore, I maintain that no solid case has been made out. Not a suggestion is made of any requisition from Government of any other province for the purposes of this specious excuse for what I might call the blackest statute on the Indian Statute-book, but that is not all. There is something much more that I wish to deal with and which I wish to present to you and to the House. It was claimed on behalf of the Government that this legislation falls within what you may call the exclusive list of the Federal Legislature. I venture to submit, and I should do so at very very short length, that it is a concurrent subject and being a concurrent subject, why should this House undertake the responsibility of doing this dirty job for the Punjab Government and sacrifice its principles. I will now call attention to List I in the Schedule :

"1. His Majesty's naval, military and air forces borne

on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments; any armed forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment.'

Then we come to Item I in the Concurrent List:

"Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in aid of the civil power."

Concurrent subject

There are laws referred to in List I now in the Indian Penal Code and that is the chapter relating to the army, naval and air force. The whole fallacy underlying the argument of my friend, the Law Member, is this—not excluding the laws but excluding things to be made laws in future. Now, that is in short the substance of the whole of the fallacy underlying the argument. What is excluded by Item No. I in List III is laws with respect to any of the matters referred to in List I and there are such laws undoubtedly. That is to say, if any Local Government wanted to amend the Indian Penal Code in respect of any of those sections relating to the discipline of the army, such as desertion, harbouring, etc. etc., all that could not be touched but it requires much more ingenuity and perhaps less perception to be able to accept that a thing which is not a law is a law and, therefore, should be accepted. That is the whole of the argument so far as I can see. Now, look at what is provided in this Bill:

"Whoever wilfully dissuades or attempts to dissuade the public or any person......"

Now, those are the class of people against whom the law is intended to be made. So that, it deals with freedom, as I call it, which I enjoy today, to dissuade a man who is a civilian. He might be called a would-be recruit but that is merely an expression—it is the freedom of one civilian to persuade another civilian not to become a non-civilian. That is the whole of section 2, item (a). Item (b) punishes a person who teaches some poison to the man after his recruitment, so that after having joined the army he might betray the army. I must confess that if my Honourable friend had given the smallest attention to the most elementary plain language of the Code, there was not the smallest difficulty in his seeing that it is a concurrent subject. Being a concurrent subject, it is the right of this House, particularly when a requisition has only come from one single province, to say that it shall not exercise its vote.

What J. P. C. Report said

I wish to call attention to the policy underlying this matter which is contained in the Joint Parliamentary Committee Report on page 145. It was then anticipated that single provinces in the matter of concurrent subjects might wish to foist their will with the only too willing support of the present irresponsible Government and hustle us into this kind of legislation. 234 is the paragraph from which I am reading :

> "There are obvious attractions to those who wish to see the freedom and initiative of the Provinces as unfettered as possible in an attempt to ensure by provisions in the Constitution Act that the powers of the Centre in the concurrent field are to be capable of use only where an all-India necessity is established, and where the enactment in question can appropriately be, and in fact is, applied to every province. We are clearly of opinion that such a restriction apart from the prospect of litigation which it opens up, would tend to defeat the objects we have had in view in revising the List of concurrent subjects. For similar reasons we should strongly deprecate

any provision requiring the prior assent of the provinces, or of a majority of them, as a condition precedent to the exercise by the Centre of its powers in this field or the condition suggested in the White Paper that the Centre is to be debarred from so using its powers in respect of a concurrent subject as to impose financial obligation on the provinces. We recognise that, in practice, it will be impossible for the Centre to utilise its powers in the concurrent field without satisfying itself in advance that the Governments to whose territories a projected measure will apply are, in fact, satisfied with its provisions and are prepared, in cases where it will throw extra burdens upon provincial resources, to recommend to their own Legislatures the provision of the necessary supply."

Extraordinarily funny

I am aware that my Honourable friend, Mr. Jinnah, asked a question and I think my friend, Mr. Nairang, referred to an amendment which stands in his name, namely, that every province will apply the provisions of this Bill as it likes. Have you translated in your own mind what is the meaning of such a provision in practice? I have never known a piece of legislation of this type in which the provisions are to apply immediately to one province and the other provinces will apply them at their will and pleasure. This is an extraordinarily funny piece of legislation that we are asked to enact. Let the province which wants it, in the exercise of its power, create an offence and then apply it to its own territories but the fact remains that the rest of the country have not made any requisition for a Bill of this kind. That is enough for our purposes. It is only the Punjab Government which has been consulted so far as I am aware and the motion which stands in our name is an exceedingly simple and modest motion. After all let us see what the rest of the Indian provinces have got to say.

Now, if it is going to be a law for recruiting for the whole of India, I hope the Marathi and all the other recruiting areas, which are not within the sacred precincts

we going to behave? Are we not patriots?" Sir, let us at all events be men. We have learnt to be men and we are not merely going by a certain argument and to ensnare our minds and our own hearts in order that we may justify our own slavery. On the strength of that one argument I am going to appeal to you, therefore, that we are entitled to time and this House is entitled to time. But apart from any question of time I say that, whatever the excuse given, anybody who votes for this Bill, modified or unmodified, sells India's freedom and betrays India's birth-right.

PRINCIPLES OF A MODERN STATE

Simla, 29th August 1938

When I propose to speak to you about the basic principles of some modern States my desire and intention is that to-day, and in the days to come, we should be able to apply some of those principles in the formation of the Indian State which I hope and trust we will achieve shortly. To me it is not merely a historical discussion; that I must leave to other people. At all events during the last ten or fifteen years I have applied myself more to understanding and acquiring knowledge which may be usefully applied to our own circumstances and to the making of the future of our country. So that if you are disappointed to a certain extent in not getting a deep historical research during the course of my speech to-day it is my fault and not yours. To begin almost in the middle of the subject, most of you are aware of what a mediaeval State used to be. I am not going to say what the foundation of a State is, or what a Government is from the point of view of the jurists; but you will easily understand in the course of the address what is conceived to be a State for the purpose of to-night's address. If you turn your attention to the mediaeval

States, either in Europe or America, you will find that the head of the State, or the fountain or reservoir from which power flows, is usually an individual, and he pretends or claims to govern the State and lay down the law on what he calls "divine authority." In other words "even the King of England of to-day," though I am not quite sure that it is still alive, "calls himself the Defender of the Faith." I believe if you go down to Rajput kings or the princes, whatever they are called to-day, they trace their genealogy either from the sun or from the moon. It is a historical fact which you may examine or ascertain for yourself: some calling themselves decendants from the sun and others from the moon. *Suryavamsa* is, I believe, the symbol of certain kings to-day. Of course when you go to Japan you will probably find the same idea. Let us examine why this has happened, then only you will be able to understand the true nature of the subject we are going to discuss to-night. The reason is twofold. One is psychological and those who have studied, and I hope there are many here who know it better than I do, will easily understand the psychology of the King as a hero, because it began with some form of divinity which came to the prophet and later on to the head of the State. He who rules must necessarily derive his authority in a manner in which that authority may not be questioned, and hence arose the theory that you find throughout history in all parts of the world 'the divine right of the King.' More often than not, during the days that he rules, he has to set up a class of men who accept the theory and invest him with that authority. This is the method by which for many centuries Kingship of one form or another prevailed.

Emancipation

Then came the time when man's mind was emancipated. It was emancipated both politically and psycholo-

gically and fortunately to some extent spiritually. The authority of priesthood became weakened, though I cannot say that it is as weak as one could hope or expect with the advancement of modern thought. Let us take England as an example. Is it not amusing that Mr. Baldwin, the Archbishop of Canterbury and a meddlesome woman should succeed in getting the King of England to abdicate his throne because they could not agree among themselves in the matter of the choice of a bride for the King? It is a thing which does not strike one at first sight, but the fact remains that to those who studied the inner side of the abdication of the last King of England, the amount of authority exercised by the people at large was obvious and almost equal to the middle ages. You may take it that in some subtle form the old idea of domination of man's mind still persists. But in course of time, as people begin to reason, they will begin to ask themselves: "What is this divinity in the king that enables him to govern?" The very first aim is the commencement of the eradication of that right. It is the acceptance by man of the condition of authority which makes the authority real rather than the source of authority itself. Without going into the history of India in detail I will say that this is illustrated in our own case. After the year 1857 and up to the year 1914 or perhaps even 1917, if you examine your poetry or literature, your history and the minds of Indians at large at the time, you will see that there was an absolute acceptance without question of what was called *Pax Britannica.* They did not question how it arose, why it arose and when it arose; they just accepted it as a blessing. I think the learned President from his own experience, and, in his own language which is much richer than mine and many others present here, will be able to recite poems which were composed in the 1860s, 1870s, and 1880s by a large number of poets of the time about the beneficence of British rule, and praising that rule. There is a poem which says that the greatest thing that was done by British rule was that it enabled a

tiger and a goat to drink in the same stream. Whether the tiger became a goat or the goat became a tiger, I need not examine here; but the fact remains that that was how we were brought up to accept that rule. Therefore, the condition of the human mind is such that mere acceptance makes even a wrong thing right. That was how in mediaeval ages the Divine Right of kings was accepted as a fact, and the longer you cease to question it, the firmer its authority becomes, and I believe that even in the Government of India Act of 1935 so far as these "poor" princes are concerned—you may call them "great" princes if you like—the means by which they have come to their present level, which will soon be our own level, are by treaty, by surrender and by sufferance. In other words, so long as you do not question their authority they are able to carry on. That is the real and true history of the Divine Right of kings if you examine it psychologically.

There was an alliance, holy or unholy, between the Church and the State and the result was that this helped the growth of the Divine Right of kings which lasted for quite a long time and it persisted in this land also.

People's Voice

The next stage at which man arrived in history was the stage that can be called the stage of scepticism. A daring to question the Divine Right came, a daring that was no less than we in this country showed in questioning the right, the "inviolable, unquestionable" right of British rulers. So long as you accepted that right, you made those rulers "gods," you even justified their Divine Right to rule over you no more and no less than the subjects of any other land, the subjects of any other country, which was in the hands of an absolute monarchy. Therefore, the beginning of a free mind is the questioning of authority and the sources of that authority. A mind that is subservient, a mind that thinks for others, a mind that accepts that what is good

for others is not good for it, is not a mind that can be called by the dignified phrase "human". This questioning of authority was the beginning of the disintegration of authority and that is how I come to the basic principles of some of the Modern States. You are all aware of the time when for the first time a question was raised whether there was such a thing as the Divine Source of the right of kings to rule; and the day it was questioned it began to dawn on the human mind that in all probability they had slavishly and sheepishly accepted it too long. It was thus that people began to evolve the idea, accept the idea and work the idea of *Vox Populi*, *Vox Dei*, i.e., the voice of the people is the voice of God. Which of the two is correct? Is the Divine Right correct or *Vox Populi-Vox Dei* correct? And yet the fact remains that for centuries most parts of the earth were ruled on the claim of Divine Right. But as soon as man began to reconsider in the light of reason his position, he began to realize that the source of strength was you and me and all the rest of the people who were governed. So the basic principle of the Modern State is the voice of the people which is the voice of God and which is the true authority—the authority given by the people themselves.

What is the strength of a State? The strength of its own individual men and women, citizens, and when they chose not to surrender themselves, their minds and bodies to another and when they began to realize that they constituted the State and that they were the strength of the State, *Vox Populi*, *Vox Dei* became the next accepted basis of the Modern State. The State became the creation of the people who composed it, and not of any outside external authority, "For the good of India," divine or undivine.

Religion

There are three ideas that are put forward in Modern States, which I have selected for the purpose of discussing

before you. First is nationalism, second, speaking with bated breath, democracy or a tendency to democracy, and, third, secularity. It is these three which may, studying the history of the last 200 years, fairly accurately summarise to be the basic principles of Modern State. They may be applied in different degrees, and suppressed in different degrees, during the tides of changing fortunes; but men and women now as citizens are looking forward to the time of redemption even when they are submerged by a wave of these three ideas. The first basic idea was nationalism, the next one democracy and the third idea was secular State. And the last one is in a sense more important than the first two. The King was the protector of religion throughout a period of time because in those States and the period of history they belonged usually to the State religion, and the people composing the State were almost of one persuasion, one faith and one religion. So long as the State continued to be a State in which the bulk of the subjects believed in one religion, it was easy for the King, to rule through the instrumentality of the priesthood by extending to them protection to get himself recognised as one possessing Divine Right. In one religion the King as the head of the State, the King as the defender of the faith, and an alliance between the priest and the King concentrating in them and their person all the authority over the mind and property of men, the King ruled. That worked so long as it was possible to work under those conditions. But one must begin to think that in so far as religion is concerned, it has served the purpose only to dominate the people. The people began to shake off both the authority of the King and of the priest, and necessarily the power of the King gave way, and hence became what may be called the growing idea of a secular State. It also became necessary by means of historical reasons. In the ancient past, there was necessarily only one religion. Take any religion or any country for that matter. You will find that superstition takes the place of religion. It is only in less than 2000 years that we

find history changing, and ultimately has it changed to-day, to the secular State and you have only to take back your mind to the different waves of faiths that have travelled over the globe to come to that conclusion.

Let us take the Hindu faith. Indeed we know that we cannot assign any particular date to it. Can you assign a date to the next known faith, namely, Buddhism? It originated in India and claims not only followers in this country but extends to countries beginning with Ceylon and ending with Japan and covering thereby a large part of the Eastern world. That necessarily resulted in the restoration of Hinduism in a country where Buddhism ruled for a time almost as a State religion during the period of Asoka with the historical ideas of which you can see survivals even to-day. Then came Judaism; the next religion that spread over a vast part of the world, which was accepted either because it was new or because it was believed to be better. Then came Christianity, which spread over a large part of the earth and reached Japan through China. Then came the last one Islam, which spread over a part of the world and has now reached as far as China. Now it is this historical retrospect, easy though it is to understand which has rendered almost necessary a Modern State to be secular. For example, take a country like Japan. It has four faiths actually being practised or believed in and accepted by different thoughts not divided by geographical areas. You can find even in the same family a Buddhist, Christian, or a Hindu and another of more ancient faith of which, at all events, I cannot give you a pronounceable name. But the fact remains that in so far as Japan is concerned, it would not be possible to build a State on the foundation of religion.

It would not be possible to build a foundation of patriotism founded on a faith, and a Japanese if you ask him whether his religion has got anything to do with his

politics he will be surprised, although such a thing is not unknown in India. If you ask a Japanese who he is, he will not tell you, "I am a Shinto I am a Buddhist or I am a Christian." Religion in his mind has got nothing to do with either political or economic community which alone makes a modern nation. You come to India, and I will give you an illustration. If you ask any of our friends here he will tell you, "I am an Agarwal Bania," "I am a Shia," "I am a Sunni." Why do you do that? That precisely brings before you the true problem that faces you and how you may apply the lessons of the world for your future guidance. If you take any other State for example you will find it very difficult to work on the old idea and theory which could only work when there was a single religion which was the faith of a single group of people governed by a single man. As soon as that disappeared in other countries it became very difficult for the head of the State to make an alliance with religion and hence disappeared both the absolute monarchy and the divinity as a source of authority. It has also brought into existence having regard to the conditions of the time an infinite variety of Faiths, and yet the fact remains that in their ultimate origin those who accepted the different faiths must necessarily be the common descendants of the same ancestors. After all religion is only a matter of belief. That is why in modern States religion cannot be the basis of authority, and in fact, in the language of one of the famous writers modern State consists of a country with natural boundaries having only one community, namely, the community of political and economic interests. A Modern State, therefore, has got to be secular. In fact, in course of time, due to the very influence of Faiths on man and woman, they became so much weaker that it will be impossible to build a State on the basis of religion and it is time that we recognised and understood that and kept our conscience, religion and God in their proper high and supreme places to which they belong and not dragged into the discussion of the division of spoils.

International State

The other day I was happy to meet a deputation of Chinese who have accepted Islam as their Faith. At that meeting as it fortunately happened, the Vice-Consul for China was also present, and I asked him : "What is your Faith ?" He said : Every Faith is represented in my family, one member is a Muslim, one member is a Christian, one member is a Buddhist and as for myself I am not quite sure what it is and whether I have any." Seeing the manner in which as the result of science or otherwise men's minds change in which the faith becomes purely a matter of individual persuasion, individual advantage and individual privilege and finally almost an individual right, it is impossible to imagine that any State could be built up or any patriotism can grow if you mix up religion with politics. That, therefore, is the *first and the most important idea of a Modern State.* Of course I am not talking of International States, because, at present there is only one that is an International State.

Those of our young friends who are Marxists here will pardon me if for the moment I don't allow myself to digress and keep within the compass of a short space. I am aware that there is a great experiment, at all events an experiment *in belief and opinion, going on ; and* we believe that in course of time a State can rise which is international and not national and I am aware—almost painfully aware—seeing many lawyers, Government officials and many others here that what is called the Third Internationale is an anathema so far as India is concerned. Whatever their opinions might be, I think they do not appreciate what at all events, the Third Internationale stood for. There is no question whether it will succeed or it will fail. It is an effort to build on the basis of the community of interests and of the men who work. It may fail, it may succeed; but the fact remains that International State is a State which, to a certain extent, is a State of

the future for this very good reason. Those of you who are aware of the vital or radical difference between Stalin and Trotsky do not need to be told that for the moment the State that aimed at being international has withdrawn itself within its national boundaries so that for the purpose of the present discussion and analysis I am not bringing Russia in. I am confining myself to the remaining States which are accepted States.

National State

The next principle that I shall examine with your permission and perhaps with your forbearance is as to the future State in so far as Modern States are concerned, and how far it has got to be national. The future State cannot be provincial, racial or sub-provincial. I will give you an example. I gave you an example, Japan, for the purpose of discussing the principle of a secular State. Let us take the example of the United States of America now.

The United States of America in its modern form is a State that has come into existence a little less than 150 years ago, as a result of the American War of Independence. Let us take America as an example. Most of you would naturally envy a State of that kind, and no doubt it has a great many lessons to teach us. You will realize that it has been in existence only within living memory, at all events within historical record of memory, and to-day, it consists of all nationalities, such as Chinese, Japanese, German, Italian, Frenchmen, Englishmen and others. Therefore, as an example of the best democratic expression of a modern Republic, you cannot but give America the first place. If, for instance, the principle of race existed to-day, what would happen to America? If an Italian in the United States said he owed allegiance to Italy only and not to America, and if to-day all the citizens of the United States of America, instead of adopting nationalism as the true ideal basis for the conduct of the State, said they owed allegiance to their respective communities you

will find the United States would cease to exist. I know that, as many of you would have observed, efforts are being made by the Germans, after the Nazi regime began, to try and see if they could do something to disturb the U.S.A. And I am happy to find that the Germans have begun to recognize that it would be a suicidal and anti-national movement. Whether you come from Germany, or Italy, or France, or Ireland, you become a part of that Mother Earth on which you live and die, and that should be the basis of a National State. That is the basis of a National State and for a long time to come, apart from the question that I raised about the origin of a State of the future, a State will continue to be a national State absorbing within it a diversity of races and peoples because, after all, we must all of us trace our origin to our forefathers the Aryans. But so far as we are concerned, there is no doubt that we are immigrants even in this ancient land, however early that immigration might be. Therefore, there cannot be any sensible basis of a Modern State except nationalism as the broad and guiding principle. Without it there will be chaos, mutual hostilities, mutual jealousies and mutual suspicion, and patriotism cannot grow on that soil. What is patriotism after all? Translate it into any language you like and it comes back to the same thing, the relationship of man to the earth on which he lives. Whether that dream will ever be realized in India is a matter for the future, but to-day at all events, an Englishman, a Frenchman, a German, an Italian or for that matter any one except an Indian claims himself and is proud to be called by the name of his own country. I ask you, men and women here, to turn round the whole of the world geography and see however small a country may be, whether there is a citizen of that country except India, who ever allows himself to be distinguished by any other name? From Afghanistan at one end, China at the other end, Japan and go round the rest of the Earth. It is a matter for you to deeply consider whether the

time has not arrived—even now it is not too late—to recognize that patriotism cannot grow on any other basis except that of nationalism, except that of attachment to the Earth that has given you birth, that has given you life and that also accepts you after death. That is the only way. If you are men and women enough to understand anything at all, I enjoin you in the name of what is accepted in every land and in the name of our Motherland that the only basis of your future State if you are going to attain freedom and remain free is the basis of genuine nationalism with a secular state as the basis of it and that brings me next to the last and great principle of democracy.

Round the Earth

I can give you many examples of many States in which language has not mattered, race has not mattered in the sense of the original race from which man came and settled. Religion cannot matter for the simple reason that having regard to the movement of faiths, having regard to emigration, and having regard to history it is impossible to maintain India in that isolated unrelationship as it used to be. How is it possible in a time, when you can circle round the earth in six days or by means of a message in five minutes, to imagine that you can by any process of thought, have any other State except a secular national State? In that case, the first basic principle is the principle to which the world is now rapidly moving—democracy, and that is the very necessary corollary of the destruction of divine authority; whether that authority was in one man or in a group of men, it makes no difference. Time has gone by when one human mind could use the fountain source of authority, and to-day you cannot but come back to the conclusion that authority has to be derived from the willing obedience of each citizen of the State, and it is the citizens who individually and collectively become ultimately the fountain source of the power and

authority of the State. For example, notwithstanding all that is happening to-day in Europe, man's mind is always turning only to one ideal, and that is democracy. I do not pretend to say that undiluted logical democracy exists to-day in the world. I am not one of those who are prepared to accept that in countries where personal freedom in the sense in which it is understood to-day, does not exist, they are not democratic countries at all. Take the case of Germany. I cannot agree that Germans have surrendered themselves and their judgment, and it is easy for us, who are slaves, to talk about other people having lost their liberties. You must try to understand what is happening in Germany to-day. Why is it that this personal freedom does not exist, as they say it does not, in Germany? What is happening in Germany? What is this that has made a humiliated, proud race, deprived in the year 1919 of almost every vestige of strength and power, raise its head and become free and equal to the other races of the world? It may have built on wrong foundations, as I believe they have built on wrong foundations; for the persecution of the Jews, any hatred of any kind for that matter, is not a solid foundation for a State, but let us leave that apart. There is such a thing as a voluntary surrender of personal freedom in order to subserve national freedom and that is my understanding of the National State of Germany. It is true that the individual has less freedom—he is almost being regimented from his birth to his death. I recognise that, and I am lawyer enough to understand those laws and the manner in which they are being enforced; but I am human enough to understand its true origin and where it will ultimately lead to. I am one of those who believe that in less time than you imagine, or most people imagine the present Nazism and Hitler's authority would have been found to have served their purpose—it will be a thing of the past—and the German Republic of the future will consist of men and women drilled though they were as human elements, superior in cha-

racter, physically, intellectually and spiritually. To a question, I gladly replied one day recently that I would sooner voluntarily sacrifice the freedom and peace that I enjoyed under a foreigner in favour of tyranny of my own countryman. In other words, I would gladly sacrifice even my personal freedom if my land will be respected, regimented and strengthened so that nobody will dare question its authority. I have great admiration for Hitler notwithstanding the cheap gibes against him. It is in us first to acquire freedom and then to use it as we like. To-day if emergency demands that I shall have to surrender my personal liberty so that my country might attain that liberty I think it is worthwhile. It is a very small matter and not a sacrifice to be proud of, but the fact remains that man by his own conduct should, at all events, be prepared to surrender his own personal liberty in order that the characteristic liberty of his country may be one that is worth the cause for which he stands. It is only a matter of proper analysis of how freedom comes, how freedom can be surrendered and how freedom can be rewon. In all necessaries of life in Germany, the highest and the lowest are treated equally. There is an ounce of butter both for the rich and poor alike. There is the acceptance of equality for all.

Value of Vote

In England, I was told recently, all Englishmen stood for democracy and dissociated themselves from the rest of the world. I have carefully examined that question, that is the democracy of the Englishman. It might be true in regard to England but what about your and my democracy? If an Englishman stands for democracy to-day, then how can he justify his rule of India? Therefore, I come to the conclusion that those who profess democracy, and those who voluntarily surrender democracy, all are in the same boat. But that does not get rid of the real issue before you and me. That each man will have equal voice in the

making of the country is a principle which we have already accepted, for after all you remember that though we have gained nothing much in the last struggle, there is one great thing and that is the vote. I used to go round during the last election and very often appeal to my friends to realise what they have acquired. I agree that it is not adult suffrage. Yet the position in India to-day is that the first foundation, whatever may be its use or abuse, of democratic Government shall be that each man and woman in the eye of God and in the eye of the State shall be equal. When I appealed to the voters in villages, I said that whatever position one may occupy, whatever be one's education or position in life one has only one vote and not one and a quarter. It is the recognition of the democratic principle, recognition of equality of humanity as much in the eye of God as in the eye of the State which shall be the firm foundation of the State of the future. You must remember that in course of time when you assist in the building of our land the first and last thing should be that it shall be a National State, a secular State and a State founded on the broadest principle of democracy. So it is for us, men of this great country, whatever may be the faith to which we belong, whatever may be the language we speak, to behave ourselves in our lives and action in such a way as to foster a feeling that we belong to one nation and one great community. As regards the nature of the State it does not matter to me in the least whether it is a Constitutional Monarchy or a democracy but this much I am certain that the Government of the State must be the Government by the nation, for the nation and of the nation.

INDIANISATION OF THE ARMY

2nd September 1938.

I confess at once I had no desire to intervene in

this debate, for I was quite certain that with the inspired amendment of the European group.

Members of the European group : Not inspired.

Mr. Aikman (Bengal European) : I object to that.

Members of the European group : It is not parliamentary.

Mr. Bhulabhai J. Desai : It is parliamentary. The amendment which has been moved by the European group was one which suited the Government perfectly well, and I have not the slightest doubt myself that if they think so alike without coming into contact with each other, I congratulate them on their instincts.

Mr. J. D. Boyle : Like the Congress and the Motor Vehicles Bill.

Mr. Bhulabhai Desai : The resolution which is before the House is one, the import of which should be fully understood. Undoubtedly it is in pursuance of what was recommended in the Skeen Committee's report, page 21, to which I shall call attention presently. But it is not so much the words or the form that matters as the demands before the committee as well as the composition of its personnel. But more important than all that is the background of the examination by the committee of what had, hitherto, happened. If I did not feel that on all those three grounds the matter has not been approached from the correct point of view, I should not have thought it necessary to intervene, because it is quite easy to say "yes, we shall appoint a committee," because there have been committees enough, committees for all purposes, committees for all results and committees without any commitments. That is the history with which we are quite familiar. Therefore, it is not so much the matter of appointing a committee as that the Government should

apprehend our demand and our opinion. And let me put it to the House that I am expressing the opinion of all those who think with me, the whole of my group and many others on the statements that I propose to make and the allegations which we are prepared to substantiate as to why this committee is there or before public opinion.

We hold that notwithstanding the Skeen Committee report, in substance and in spirit the promises made have been rudely broken. We do not believe that there was any the least desire to really do and carry out in spirit what that committee was appointed for and had recommended. We hold undoubtedly also, in view of the answer given by Mr. Tottenham only last year to me that he would think that a person would be a congenital idiot if he believed that even in a century the Indian army would be Indianised. Which of us two is to answer, that is entirely for the Government to consider. After that to come before this House and plead a little more gently and hope that we would accept a committee merely as a matter of form is a futile hope. But more than all, it is not a question now any longer of what was before the Skeen Committee. The people of India take an entirely different view of this matter. The people of India do not take the view that it is for the British Government to determine as to how and in what manner and to what extent and at what speed the Indian army should be Indianised, (irrespective of the other issues which I have argued before) but from the point which was raised in this debate. And we charge that the whole conduct of the British element of the Army, so far as officers are concerned, with reference to the Indian officers is such as to discourage them in every way from entering the army or remaining in it. We believe not only that, but we also believe that there is more than that. The relative pay and pensions are of such a character that necessarily

last very illuminating report that was handed to us. What we, therefore, complain about is not that the Indian is not well paid. What we complain about is that the European is so well paid that he renders it impossible to have within our means and without any disparity the real Indian army that we want.

"Revolutionary Scheme."

That is the claim I am making before the House. It is no longer a question of merely saying "Oh yes." We will see. We have a "revolutionary scheme." I remember very well when the first executive council was appointed in the Bombay Government, it was considered to be a "revolutionary" step and I know why it was considered revolutionary. According to your view an Indian deserves no place there and, therefore, when you appoint him you consider it a revolutionary step but the disgrace is on the Indian who accepts that position and thinks it is revolutionary.

So far as the committee is concerned, what we definitely demand is this. As regards the question of segregation of eight units, I remember you have one motive and we may have another purpose. The segregation motive is, of course to treat the Indian as an inferior class. That is because you accept it and those who seek the appointments take them. You should not, therefore, complain if Indians of honourable families and education and patriotic instincts with self-respect are not willing to take up the position you offer. You should not on that score complain of the inadequacy of enlistment, because the cause is not as you imagine inefficiency—a charge which you have withdrawn. But we do not propose to fight merely with words.

Half Hearted Attempts

In so far as we are concerned, the real reasons why

you don't get an adequate supply is that you would not create opportunities for training in schools and colleges and I know what half hearted attempts were made when you started the U. T. C. in Bombay and other universities with the working of which I have been familiar. The whole idea was to create a farce, a show. You have no idea of instilling the young men's minds with the proper ideals and with the kind of life for which they are being prepared. Then the only remedy that one can see and the only remedy that we do see is not by the acceptance of the proposition that the European will remain and that we should live up to his standards, so that there may be no complaints on the part of Mrs. Subbaroyan or anybody else. The true process is to maintain the proper type of Indian army and an Indian army officered by Indians, then there will be no question of disparity in life. That is our demand.

Now, I should like to read to you what the committee said in their report 12 years ago. It is the opinion of those Indians who sat on the committee. I read from page 24 of the report: "Our colleagues, the Hon. Sir Phiroze Sethna, Mr. M. A. Jinnah, Diwan Bahadur Ram Chandra Rao, Major Zorawar Singh and Major Bala Sahib Dafle, while agreeing to the principles upon which the suggested scheme of Indianisation is founded, consider that the culminating point of the scheme, that is to say, the Indianisation of 50 per cent of the cadre of officers in the Indian army, should be reached at an early stage, namely, after 15 years."

More than twelve years have passed now. If there had been the smallest grain of honesty in the appointment of that committee and the desire to implement their recommendations, then within the next three years there must be fifty per cent of Indian officers in the Indian army. Even according to the scheme mentioned in the

report there should be 160 appointments every year and on the very basis of the figures given in the report we should be nearing the 50 per cent proportion now, as was pointed out by the members of the Committee who spent a whole year and a half on their labours. That being so, we must be able to say before this Committee and the members of the House that the recommendations of that report have not been implemented. Of course, there are insidious methods for not implementing the recommendations of the Committee and that is how the matter is allowed to be dragged on. It is our definite demand that there should be an Indian army officered by Indians and no part of the British army shall remain in India and it is with that background that we want this Committee—not for the purpose of tinkering with raising the pay of the Indian officers and bringing them up to the level of the European officers, so that we may be made to pay more. That is not our scheme nor is it our scheme that you should be at liberty not to have, if you so choose, a majority of the elected members of the House. In the Skeen Committee, I think it was seven and seven but we definitely demand a majority and that for a good reason.

Our Demand.

We do believe, as it has been accepted in many European countries where the army is mechanised and is in a very superior condition of efficiency, that so far as administration, management and statement of principles are concerned, a civilian has indeed a better mind than the military man. Even in the British cabinet you have Sir Thomas Inskip as the Co-ordinating Minister for the three arms of the realm. We, therefore, believe that without an elected majority of members of this House you will have a Committee which will decide as you like. It is on the basis of these two statements that we make our demand. We do not want merely tinkering with the

problem and merely making the scheme a little wider and more elastic. Our definite demand is that within less than fifteen years the whole of the Indian army should be officered by Indians. Secondly our definite statement is that you have not treated us fairly and properly and have not carried out fully what you promised to do though you may have a few favourite Indians in the army who have been treated as equal fellow men or at least in their servility, they so believe. We say definitely that you have made every effort to degrade them, to humiliate them and to compel them to resign and ultimately, if possible, to dismiss them. That is the history according to us of your "implementing" the terms of the Skeen Committee recommendations. Our demand, therefore, is that the Indian army shall be entirely officered in fifteen years' time by Indians alone and secondly there will be left no question of disparity at all. And thirdly the decision shall be reached by a majority of the elected members of this House.

Sir, I support the resolution and my honourable friend Sjt. Avinashilingam Chettiar's amendment."

THE MOTOR VEHICLES BILL

6th September 1938.

Mr. President, as regards the satisfaction which the Honourable Mr. James took to himself about persuading himself instead of persuading others, I think he has a satisfaction only centered in himself. I should like to read to him another passage from the speech to which he made a reference, and which, I think, is at the back of this Opposition. I am reading, from my own speech, parts of which he quoted, at page 2156. I read out the warning to this House, and I wanted that we should proceed with caution. I said, Sir:

"The amount of power which is usually in them or has to be in them, I would not be far out if I suggested that about ten crores out of the 17 corores really belonged to the lorries and buses. Therefore, the entire capital cost of that much vaunted industry has to be paid, every pie of it, to the foreigner, and all the running costs, every pie of it, have also to be paid to the foreigner. On the other hand, the only persons who are the problems to be regarded—taking the 41,000 lorries and buses—are purely the driver and the owner, and I think we are exaggerating the problem when we are talking of the road transport industry as it is called. In my view it is an exaggeration, and it is a wrong perspective which is applied to it. I am not, therefore, suggesting to the House, that even if we have got to buy our materials elsewhere in the world, this means of transport is not to be used. But I would certainly considering it from the point of view of the country as a whole, be very careful before I exaggerate its importance to the extent to which it is done, lest I am killing something of such gravity and such importance and such incalculable, exclusive good to my country that I must go very slow. It is a problem you have got to consider. I am not surprised if some of my friends."—

I hope my friends will listen to this with a certain degree of greater sensitiveness than a cheap gibe,—

"I am not surprised if some of my friends look at it from the point of view only of mainly those who sell oil and those who sell cars and use this very legitimate, very useful means of transport, and, say, 'the fixing of rates is wrong, regulation is quite wrong and still worse'......"

The part of my speech still stands, and I stand before this House to caution them against any alliance with those who on plausible grounds try to prevent us from co-ordinating the railways and the road transport .I have the courage to stand before this House and support the present clause 42 for the very good reason that the one objection which I made to the original clause 41, and the only one which I made, has been met. Under clause 41, in the composition of the regional transport authority, the proviso read as follows:

"Provided that where such representatives are included equal repre-

sentation shall be accorded to the business of motor transport, railway transport, and where necessary inland water transport."

The clause is only discretional

And though my friends may not see the difference, I am, at all events, gifted with sufficient intelligence to see that if I have succeeded in omitting the representation of the railway authority in the manner in which the present clause 42 is drafted, I have attained the end for which I was then pleading. Therefore, Sir, there are two grounds for considering clause 42 as it now stands. The first is, beware of those who want to sell cars (it does not matter what happens to the railways). In all my criticisms of the railways, I have never found my friend, Mr. James, and his colleagues ever agreeing with me in telling the Government how they are managing the railways. But today they stand here quite unconcerned themselves and say: "You will pay interest to us, all the same if you buy a little more oil, or a little more petrol and a little more rubber or transport vehicles,—why not!" So that I do not very much trust the kind of argument that comes from the source from which it comes, but the fact remains that we have here the clause 42 as it stands, and we may not see what it involves and what it proposes to do. I do not deny for a moment that if it were possible for us, and if my friend, Mr. James, and his friends would co-operate with me, we shall get rid of that section of the Government of India Act which has reposed a considerable amount of power and authority in the Governor General in appointing what is called the Federal Railway Authority. When we ask for that, their co-operation goes the other way. Therefore, I freely confess that I am placed in a difficulty which is not of my making. I may or may not be able to control the railways as much as I may wish to do. Therefore, there is no reason why I must not see that if I have got to pay for the deficit on the railways, I should protect the taxpayer

from the point of view from which I can regard the two means of transport as really useful. I, therefore, do not see myself notwithstanding the manner in which my friend thought,—he had made a great point of my speech,—to what extent he can quote myself against it. I see this that they are very sorry that one part of my objection is met, namely, that on every authority, and particularly the one under section 42, which is the Provincial Government, there are no railway representatives on that particular body. That has been omitted. So far as the co-ordination of the two is concerned, even my friend pays lip-worship to that particular principle. But my friend feels that in asmuch as my friend Mr. Som thinks that because we cannot completely control them, therefore we must cut our nose to spite our face. We are not so foolish. Of course, my friend encourages him, because to him railways do not matter. What matters is selling other things. I quite agree, but we are not going to be deluded by any such combination of that kind. We are going to consider this question from the point of view of the limited authority which we do possess, limited undoubtedly, by the constitution, of which my friends over there are the warmest supporters. And, therefore, finding that, while we have limited control under the third clause of the section to deal with the railways, we must do what we can to see that we do not inflict any avoidable injury to the other means of transport, and in doing so we have no desire, as my friend seemed to think, to let loose one or the other. And let us read the section with a little more care to understand how it is going to work. Section 42 (1) lays down the considerations which will weigh with the Provincial Governments. None of my friends can say those considerations are improper, for the first one is "the advantages offered to the public, trade and industry by the development of motor transport". Therefore, in any step that they may take by way of prohibition or restriction, the first and foremost consideration they will have would be

the advantage of the motor transport to the public, the trade and the industry. And what more could ever be expected to be done? If a Provincial Government finds that the advantages offered to the public are such that they need not prohibit, need not even restrict, they would not do so.

My Honourable friends are suffering from a complex for which there is not an apt description in the English language. Where a mere discretion is given, having regard to certain matters which must be essentially considered, they read the section as if prohibition has come, restriction does not exist, and there is no transport industry at all. If that is their mind, they are, I think, beyond all possibility of help or understanding. They must recognise that what that section lays down is merely this. My Honcurable friend suffered from that belief, also my Honourable friend Mr. Som. They seem to think that you are prohibiting, as if the section ran, all motor transport in this country. I hope that they will have a little more care in reading the clause before they come to this House with a suggestion to omit that clause. All that that clause says is this. Certain power is conferred—if the conditions are fulfilled—on the Provincial Governments to prohibit or restrict transport. Let me therefore read the clause. The language may or may not be very apt.

"..the desirability of preventing the deterioration of the valuable national assets in Indian railway..."

Remember that it is people who ultimately pay for deficit

There is an amendment to effect the co-ordination of the two means of transport, and I hope and trust that, if for nothing else, for the purpose of a greater propriety of language that particular amendment may be accepted. But the underlying idea is exactly the same, that we cannot afford, whatever my Honourable friends may think for their

own benefit—we cannot afford to forget, not even the Provincial Governments—while they have no control over the management of railways,—the fact that the inhabitants of that particular province are among the people who ultimately would have to pay for a deficit on the railways. So that we have all the time to remember the fact that, while we should take every means in our power to get complete control over the railways through the centre whatever the form of Government may be,—but while doing that, while making that effort in which you will not assist and I know you will not assist, at the same time we are not blind at all to our own duty and liability to make up the deficit when it does occur. We cannot, therefore, ignore the section however much Mr. James may attempt to inveigle us into his parlour:—

"..the desirability of preventing the deterioration of the road system.."

I know there is going to be a fight over the question whether or not we should have such an axle weight as will prevent a deterioration of the road system. Therefore, so far as the three points are concerned—so far as the advantage offered to the public is concerned, that is the primary consideration. So far as having uneconomic competition and running the railways, as I said, to no useful purpose—that is the second consideration, and the third is to see that our roads are maintained in a degree of efficiency and at an expense which the Provincial Government can afford. Now, having these three things in mind, that Government is asked to do what?

"....and after having heard the representatives of the interests affected and having consulted the Provincial and Regional Transport Authorities concerned, may...."

What more possible precautions any reasonable body of men having the administration of a province could ever have been asked to take before they come to a decision?

sure, that if the covenant of the League stood unchanged then India could bring up the question of her relations with England before the League. So the first thing they proceeded to do was to make a declaration that the members of the League, between whom any dispute could be raised before the League and by the League, were independent covenantees. The immediate effect of this was that India lost her independent vote, became dependent upon Britain, and any question concerning Britain and India could not be brought up before the League directly by India. The direct result of this was that England succeeded in gaining two direct votes, one her own independent vote and the other India's dependent vote. We pay Rs. 14 lakhs a year for the maintenance of what is regarded as our share of the contribution for the preservation and continuance of the League.

Paid Propagandists - First Cousins of John

The other day one of the gentlemen who are maintained at our expense and with the help of our contribution came round to me when unfortunately we lost the chance of moving a resolution and challenging a vote in the House on the question of the League of Nations and said: "Sir I thank you for not pressing this matter." I am ashamed to confess that he was an Indian. I told him that it was not my desire not to press the motion and that was not what he meant. I told him: "If you feel that you have succeeded in preventing me from telling the Indian people what is the exact situation and where we stand in regard to the League of Nations, you are sadly mistaken," because there is a habit among a part of our countrymen who in whatever manner they find their living they seem to identify themselves with our oppressors in outrageous tyranny either on us as individuals or as a nation and it is one of the saddest reflections that on account of our subordinate subjective position those of our friends who at

our expense go into what is called the Government of India and its environments consider themselves the first cousins of John instead of first cousins of ourselves. At all events whether John considers them as his cousins or not, as regards the rest of the country they boast as if they are the first cousins of John. I am really astonished that an Indian, even though he was employed by the League of Nations perhaps as a part of a propaganda for its maintenance, should have dared to make the remark to me. It is a very unfortunate thing for India, because we have got to find 14 lakhs of rupees out of the poor country to maintain these gentlemen.

Haves and Have-Nots

I wish to give you shortly the history of the conduct of the League of Nations from and after its commencement in the year 1919. Remember that at that time Germany being humiliated, people believed that she was a second-rate Power in the world and she was not a member, but Italy, Japan and Britain were members of the League Each of them had ambitions, and each of them had an empire. And once you stipulate that no dependent nation can claim the benefit of the Covenant of the League of Nations, it is really a League of "haves" against "have-nots." The result is with their cumulative weight and strength the "haves" are able to maintain what they have. But that was not enough. The test came in a very short time.

China is a member of the League of Nations. Japan began to think that Japan was not wide enough for the purpose of maintaining her growing population, and she said as Germany is saying to-day "We have a population of 125 per square m. metre. We are ambitious and we must look for land elsewhere." She turned towards Manchuria for expansion. China appealed to the League and what the League did was to call a Council and for the benefit of those who have not read one of the most dramatic speeches

made by the representative of the Japanese on the occasion of the demand by the members of the League for intervention so that Japan may not aggress, I shall point out that the Japanese representative got up and, I believe, looked straight at the representative of Great Britain and said: "Who are you to tell us that we may not aggress? How many parts of the world have you aggressed upon? Only you have conveniently done it before, and we propose to do it now. But so far as our actual conduct is concerned there appears to be no difference; and he quoted a passage from the Bible which I do not wish to do, telling them that thieves should not accuse thieves. The result was that the great League of Nations which was intended to preserve the liberties of the world was a party to the sacrifice of the liberty of Manchuria.

The Second Achievement

After a short time, Mussolini wanted to become great in the eyes of the world. He began to think of the ancient Roman Empire, whose successors the Italians, claim to be, but the days of the old Roman Empire are gone. Every dictator in the world has always to maintain not merely the prestige of his people but he has also to feed the vanity of those from whom he claims sacrifices for the maintenance of power. In his desire to establish a second Roman Empire, Mussolini saw a small opening to a harbour in the Red Sea. But his eyes went up further inland into Africa, and he drew a most glittering picture of an Empire of Ethiopia. The League of Nations was again tested. Italy was warned very seriously by all the members of the League of the consequences of fighting Ethiopia. They pretended to create trade sanctions which were more honoured in the breach than in the observance. Mussolini turned to England and asked: "You have built up an Empire, you have extended it to all parts of the world. Who are you to tell us that we can-

not have an Empire for ourselves?" Soon after, Ethiopia fell. This was the second achievement of the League!

Spain and the League

Now we come to the next achievement of the League. Then came the intervention in Spain. Its history is yet to be told, the fight is not yet finished, but the fact remains that notwithstanding being members of the League, and notwithstanding the intervention of Germany and Italy in the name of sending volunteers, in lesser time than you or I believe Franco will conquer all Spain. I think it is an open secret that Franco is an agent of our friend Mussolini. What will be its future political consequences to the rest of Europe and its freedom is more than I can tell you, but a brave and ancient people having established a Republic and after getting rid of its king who was nearly allied to the British throne. tried to maintain its liberty, and the only solution that the League has found is to take a heavy record in letters of black of what is happening in Spain and is watching the extinction of the Spanish people. I think we would all agree, if any one had any voice in this matter, that, irrespective of the question of our being members of the League, it served no useful purpose. We have assisted in being the camp-followers of Britain, but it is not merely on that ground but on the ground that the very basis, the very basic motive of the League of Nations which was to restore the liberties of the rest of the world has not only disappeared but we have all been deceived. Not only the rest of the world which was slave remained a slave, but a part of the world which was free has been allowed to become slave through the instrumentality of the League of Nations.

Premier meets Hitler

To-day Mr. Neville Chamberlain is meeting Herr

Hitler, and a great issue is involved in this meeting. I am afraid Mr. Chamberlain is going to what I may call, sell Czechoslovakia for the purpose of maintaining his own freedom and of the British Empire by possibly tampering with the liberties of the Czechs. Czechoslovakia came into existence as the result of the Treaty of Versailles, and he would be a bold man to-day who could say that the purpose for which Mr. Chamberlain is meeting Hitler is not what I suspect. The manner in which Mr. Chamberlain has sought the interview with Hitler has to a large extent indicated the direction in which Great Britain is now moving.

Lest Britain should lose what she already possesses she is now crying for world peace, not so much in the cause of freedom as so much in the cause of preserving her own Empire.

The preservation of world peace by saying in some form or other, as the Britishers are doing now, that Czechoslovakia is to be dissolved in the interest of world peace will be a betrayal of the cause of liberty. This can be done in one or several forms. They may agree to a plebiscite. Do you expect, in reason, that in a section of a country where 90 per cent. of the people are Germans a plebiscite is going to result in any other manner than to say that we wish to go? I wish Great Britain would take a plebiscite of India, but I know they do not want it. They only desire to use the word and get away with the form instead of the substance. The fact remains that if they supported a plebiscite of the Sudeten Germans, they would have sacrificed the liberty and freedom of the Czechs. The problem of Czechoslovakia is a very simple one. It is a State which consists undoubtedly of what would be called by European nations a conglomeration of several races—the Hungarians the Poles and the Sudeten Germans. Czechoslovakia has during the last few years developed a marvellous power of organiza-

tion and strength, and it is a State that has raised the standard of living of all who have come within its ambit. If Germany is allowed to swallow that portion of Czechoslovakia, it will be the greatest act of foolishness ever perhaps witnessed in world history, and Britain will not escape the consequences of such a tragedy. If Germany is allowed to have her own way to-day, then to-morrow that portion of the Czechoslovakian State which is Hungarian or that which is populated by Poles will claim equal freedom. What will then happen to the remaining members, it is almost too tragic to consider. In conclusion, I would appeal to you in spite of the machination of Imperialist countries not only to fight for your own freedom, but to declare in unmistakable terms that you stand for the freedom of the whole world.

Therefore, please do not delude yourself with the idea that it is merely a question of leaving the Provincial Government, sitting down with nothing before them and hearing nobody, merely just to prohibit the transport. If you remember that, I think you would have been sufficiently awake to the importance and value of that provision. What is the power conferred upon them?

"....to prohibit or restrict throughout the province or in any area or on any route within the province...."

My Honourable friend, Mr. Som, and Honourable friend, Mr. James, appeared to imagine that the result was to prohibit them everywhere. I hope my honourable friend, Mr. James, understands, and I know he understands English better than I do. If this clause means that they ought to be prohibited everywhere, he is mistaken; but if this clause means that they can be prohibited somewhere, that is what that clause means,—according to the guidance of the several interests to be considered. Please do not draw such a picture that it defeats its own purpose, you waste your own argument to defeat yourself: The whole meaning of that clause is that three paramount considerations have to be borne in mind. The representatives of all the interests concerned to be consulted, and having done that if you find in the interests of all, in the co-ordinated interests of all that a particular course should be taken, then that is taken. Then, we go on:

"....or subject to such conditions as it may think desirable, the conveying of long distance goods traffic generally, or of prescribed classes of goods, by private or public carrier; or fix maximum or minimum fares or freights for stage carriages and public to be applicable throughout the province or within any area or on any route within the province."

An effective control over Railways

Then, my Honourable friend said, how are you go-

ing to get anything out of the railways? I believe that my Honourable friend is a sufficiently gifted businessman. I believe he understands that no Provincial Government is going to fix a rate or restrict even a transport unless, first, it sees that the railway does not listen to it. If the railway, for instance, maintains its own rates, if the railway does not give these amenities, the easiest way, the most important lever for the Provincial Government is to say, while we have the power we won't exercise it. My Honourable friend may well understand that it is a sufficiently elastic device for the purpose of what he laughing told my Honourable friend, Mr. Joshi, an indirect but a very effective control over the railways. If the railways desire that the two should be co-ordinated, it is up to them to carry out what the Provincial Government can, without having the power so to do, ask them to carry out. They can make a representation. "It has been represented to us that on certain routes your rates are high. Your facilities are poor. We, therefore, are not prepared to prohibit a parallel road transport even over long distances. But should you be reasonable and should you be prepared to come to terms, then we shall see that to the extent to which we can co-ordinate we shall do so". In fact, this clause, when passed into law, will be a provision which is the only commercial means, practical means, business means of co-ordinating the two. For, the railways cannot run riot and hope to expect that the Provincial Government will come to their aid. If in the matter of transport of passengers or any class of goods on any route or on all the routes the railway is not prepared to co-ordinate with them they will allow competition to go on to bring the railways, according to the language of my Honourable friend, Mr. Som, to their senses. But what is not perceived is a vague fear of complete prohibition without any thought—that seems to be the kind of fear that has inspired my Honourable friends. They seem to think that the section merely means that the road transport is to disappear from

tomorrow morning. Let them understand that there is a self-acting adjustment which this section provides and more. If you come to sub-section (2)—I quite agree that the Provincial Government will bear in mind the nature of what is called the transport industry. I quite agree that they will begin to realise, "As between motor and motor we quite accept, but as between motor and railway we do not accept". It may well be that I may not be able to reform the railways to the extent to which by a direct process I should like to do. But supposing I could not do so, that does not mean that I could not exercise some power and influence through the giving of this power to the Provincial Government. That is why from section 41 the regional transport authority with equal representatives of motor transport, railway transport and inland water transport—all that has disappeared. We have selected a body of men who are interested directly in the provinces, but also almost directly, or if you must use the word, indirectly in the revenues and prosperity of the whole of the country. It is for that purpose that the Provincial Government has been invested with this power and what is more. There cannot be any grievance on the part of anybody when he comes to sub-clause (2):

> "The Provincial Government shall permit, at such intervals of time as it may fix, the interests affected by any notification issued under sub-section (1) to make representations urging the cancellation or variation of the notification on the following grounds."

Now, see if you can add reasonably to any of these grounds. Take the railways for instance and see what is the lever that we are using which Mr. James would not see. He of course is very blind, who would not see, having eyes to see. Now, read what the rest of the sub-clause says:

> "(*a*) that the railways are not giving reasonable facilities or are taking unfair advantage of the action of the Provincial Government under this section;"

Now, can there be a clearer enunciation of the policy to be pursued by the Provincial Government under this section than to say that the first thing to which they pay attention at the time the variation of the order is made is that the railways are not behaving themselves ? Remember side by side two things, first when making the order the affirmative thing which they will consider is the advantage to the trade and the public and the industry of the development of the transport. At the time of modifying it, the most important thing they will consider whether railways are or are not giving reasonable facilities.

We want to control both means of transport

My friends argued that the railways do this and don't do that. Assuming there was a case made out for it, your proper opportunity is to point out in a particular instance, where there is either a prohibition or a restriction—a mere soliloquy won't do—what the position is. You will have to face an examination of the balance of advantages and the balance of loss and the co-ordination of the two forms of transport. You will have to make out a case to the satisfaction of a Provincial Government representing the elected members of the people that you must relax this particular restriction. You must omit, expunge or cancel that particular prohibition. If the railways are not giving reasonable facilities, it is up to you to make out a case. Mere argument would not do. You cannot try to produce anarchy in which you are supported by friends who sell oil, who want to continue to sell oil and sell motor trucks and want to continue to sell motor trucks. We do not propose to have an anna of that but we want to get control both direct where you can get it and indirect, if you cannot get the direct one.

Bring pressure on Railways through Provincial Governments

Then I come to (*b*) that conditions have changed since

the publication of the notification. What else could you have? Suppose in the matter of the requirements of a particular locality or in the matter of the railway system, changes have taken place which require modification and the special needs of a particular industry or locality require to be considered afresh. In other words, this part brings to bear upon the judgment of the Provincial Government every essential factor from a national point of view which it was possible to lay down. It is not by saying that this section means the prohibition or extinguishment of motor transport that you can get a vote. You can get a vote only on a true understanding and a complete and full apprehension and comprehension of all that that section conveys and means. That section is a merely enabling section. No Government need prohibit. No Government need restrict, unless having regard to the three considerations set out that it is in the interest of all concerned that it should be done. Also they must cancel, relax or vary the restriction or prohibition, having regard to the three considerations. So please remember that the section does not write down the death of the motor industry, which is the way in which the matter has been argued. You can do what you like. You need not understand if you don't like to but I beg of you to understand the fullest implication of this. All that I can urge before the House is that there is at all events an honest and reasoned effort to get as much control over the railway system as possible in order that they may, by reason of the competition that exists, give reasonable facilities and not take unfair advantage. In considering the question of prohibition or restriction, the Provincial Government is to have primary regard to the advantages offered to the public and to trade by the development of the transport industry. I said and I say it again that I am not very enthusiastic at this stage of India's development over what my friends can easily be enthusiastic about. At the same time, the railways cannot reach us anywhere and everywhere and for that purpose one has to choose the lesser of two evils. I have every word

of encouragement for the motor transport industry, but my encouragement is undoubtedly tempered by the consideration of two facts, first, how much do I pay out to the foreigner for what is called an industry of mine, and secondly, to what extent, I am prepared to injure what I have ultimately got to pay for, namely, the railway interest. Between the two, there is a mean that we have attempted to cover by means of this section, and that is that we shall through the Provincial Government bring every pressure on a railway in order that the two means of transport may be co-ordinated. That is the way in which I look at this section and so far as any quotation is concerned, my friends can read it all over again and understand it better than they have hitherto shown to have apprehended.

PRESIDENT'S RULING FOR "FUTURE GUIDANCE"

7th September 1938.

A dangerous Precedent

The following statement was issued by Messrs. Bhulabhai Desai and M. S. Aney :

" We have read with care the statement made by the President on September 5 and given it our respectful consideration. We, however, feel that we cannot acquiesce in several parts of that statement which purports to lay down or follow certain principles or rules of practice. We, therefore, feel it our duty to issue the following :—

With reference to the ruling of the Deputy President on the particular incident referred to in his statement, the President states as follows :—

" But if he meant by that that I should pronounce whether the vote given by Mr. Deputy President was valid

or not, then I hold that, according to the established practices of this House, Mr. Deputy President having given his ruling that his vote was valid, no appeal lies to me as President and there can be no question of my reviewing or reversing his ruling, so that his vote must stand on the records. So far, therefore, as I am concerned, that particular matter must be taken to be settled by the ruling of Mr. Deputy President who was in the Chair at that time."

With great deference, so far as this part of the statement goes, we entirely agree that it contains the correct position but as we feel that what follows afterwards is inconsistent with the spirit and the substance of this part, we venture to take exception to the same.

The President then proceeds :—

"For purposes of future occasion, however, I will deal with the two questions that have been raised before me."

The two questions are : (1) whether, while voting is going on, lobbies are a part of the House, and (2) what is the true interpretation of Section 63D, (3) of the Government of India Act.

No Controversy

It is not our desire to enter into a controversy as to whether the President was right or the Deputy President was right in their respective interpretations of the relevant rules and the Section above referred to. Once the President held that the ruling was conclusive for the purpose of voting when the event occurred (as he rightly did), we are of the opinion that he could not proceed then to give a contrary ruling on the interpretation of the same rules and Section until the occurrence of events requiring such an interpretation. We cannot agree that because a particular set of facts may occur only when the President is absent,

that circumstance confers upon him any jurisdiction to make a pronouncement which he is not otherwise entitled to do nor can we agree that the President can confer upon himself such jurisdiction with the assent, either express or implied, of the Deputy President. In fact, a similar question may arise when one of the Panel of Chairmen is in the chair.

Opinion in Abstract

It is a dangerous precedent which we cannot overlook that opinions can be given in the abstract on hypothetical grounds, for what is described as "future guidance." The true effect of so doing, assuming that the opinion had any effective value, (except as one deserving respectful consideration) takes away from the presiding member for the time being that right of exercising his own judgment and coming to an independent decision as to the true interpretation of the rules and the Section concerned.

We regret that we cannot agree that the passages which he has quoted from what the Speaker of the House of Commons is said to have stated on July 4, 1912, can confer any such jurisdiction. One of us contended in the House that where a ruling as to the interpretation of a rule or a Section is given by a presiding member on actual facts, it can only be an expression of opinion which deserves to be taken into proper consideration to enable the presiding member on the next occasion to come to a decision, but it can have no further binding effect.

We cannot conceive of even a judicial tribunal expressing an opinion without any occasion arising for an interpretation of any rule or statute and we are aware that where an opinion is expressed by a judical tribunal on a matter which is not necessary for the actual decision of the case such an opinion is regarded as only an *obiter dictum*.

Continuity of Practice

While appreciating the limited value of "the continuity of practice and certainty of procedure," we hold that a plea for "continuity or certainty" cannot be allowed to prevail at the expense of the correct or a true interpretation of the rules or the Section concerned. We do not believe in a perpetuation of error on the argument "of continuity of practice or certainty of procedure.". We cannot, therefore, accept :

1. That an abstract opinion can be pronounced by the President ;

2. That any pronouncement as to the interpretation of a rule or Section on a given set of facts when they actually arise can serve as more than a ruling to be considered with respect to enable the presiding member to arrive at a correct decision for himself in the exercise of his judgment ;

3. That any such ruling can compel the presiding member to accept an interpretation contained in the ruling in preference to his own independent, well-considered judgment.

We, therefore, consider ourselves and the House free to raise a point of the correct interpretation of rules or Section notwithstanding any ruling to the contrary, and under no circumstances can we consider an abstract opinion given by the President of any real or effective value unless we in our judgment consider it to be correct.

FINANCIAL CONTROL OF MILITARY EXPENDITURE

13th September 1938.

Mr. Deputy President, the Resolution before the House

as amended demands three things. We first ask that "a Committee, with a majority of elected members" should be appointed immediately, first for the purpose of "examining the arrangements in force for the financial control of military expenditure by the Finance Department", and, secondly, "to suggest ways and means of reducing the present cost of Defence". Sir, within the limits of this Resolution, it was quite possible that, without eating the humble pie, but always pretending to be brave, my Honourable friend, Sir James Grigg, might easily have accepted the first part of this Resolution. Sir, I am aware that, in my part of the country, it is sometimes said that women are bullied by their husbands, but in their own homes, when the women begin to slap the men, the men, to save their faces, shout out : "have it",—and I believe it is that kind of success which my Honourable friend can claim in his contest with the Army Department in the matter of expenditure. I am afraid, therefore, that I cannot accept either his view or the success for his compatriots in the army, nor of the safeguards which I do not know where they were, referred to in the maiden speech of my Honourable friend, Mr. Miller, when speaking in this House. But it is not so much this part of the Resolution as the second one to which we attach a greater importance. While we say, in the phrase which is very common, that this military Moloch is eating out all that we are producing, we are coolly told that in the Standing Finance Committee and otherwise my friends of the European Group believe that there are enough safeguards, and that, in the teeth of the note of the Public Accounts Committee, which was read out by way of practical admission, that the expenditure is wasteful is unchecked and requires to be closely looked into. It requires a lot of self-satisfaction and a lot of salving up of one's conscience in the face of that statement of the Public Accounts Committee for an outsider to be able to say : "Oh, no, all is well in our God's world, and it does not matter what happens to the rest." But it is really to the second part of the Resolution to which we attach the

greatest importance. The other day, a very experienced journalist told me that it is not so much the substance of what a man says as who says it, when he says it and how he says it. The Honourable Sir James Grigg might, I believe, have refrained from saying several things which he said in his speech. He hoped to coat with a certain amount of impervious sugar what he thought was the bitter part of his speech, and, so far as I am concerned, I regret to find that it is not so much a speech of conciliation as a speech of challenge. I regret that he should have selected an occasion like this in the world crisis for delivering a speech of this kind. I entirely agree with him, and he knows it very well that I agree with him in the imminence of the menace to the world's peace, at all events in Europe, but, while agreeing with him, he need not have attempted to get our goodwill by bullying, hectoring and coercing. That is the last method of getting goodwill from mankind, however, weak you may suppose us to be. It has, therefore, become my duty, a duty which I owe to myself and to those outside this House, to state categorically our views on each of the points which he has raised. Taking first the actual issue, he said this:

"We are discussing Army expenditure and I say quite bluntly, (*I expect nothing else from him*) with war clouds lowering on every land (*I do not understand the metaphor, but that does not matter*) I do not think it practicable in present circumstances to make any appreciable reduction in Army expenditure."

If that pronouncement means that for that reason a Committee is unnecessary or useless, I may inform, at all events, the elected Members of the House that we do not accept his word as the last word on this question. Then, he claims for himself not only infallibility in the matter of finance, nor merely infallibility in the matter of pronouncing upon it, but what he calls the constitutional infallibility. He says we are a minority Government, and, therefore, we ought to be more impudent and more blunt, because he says that by saying we must have the last word, being a minority

Government. He has often openly said this "and that is our ambition within a measureable distance of time". He further says :

"We do not command a majority in the Legislature, and yet we are responsible and irremoveably responsible for Defence."

But, in England, the executive is in a position to enforce its will, so long as it is a majority in the Legislature. And, then, Sir, he proceeded to expound on a subject which is somewhat dangerous for him to expound. What would be the expanded rights, if any, under the Constitution of which he is very fond and which he wants us to accept? He told us that even then we might vote upon it and discuss it *a priori* on the general Budget debates and *ex post facto* as a result of the report of the Public Accounts Committee. And he still thinks that he is asking from us, under circumstances of this kind, our goodwill. He comes next to what he calls the warning part of it. He says this :

"and that in its turn depends on a removal of suspicion and growth of goodwill not only between the Indian communities themselves but between Indians and the British."

No more Participation in Britain's Wars

I speak with a grave sense of responsibility on that issue which he has raised. There are two matters and two points on which our mind and our policy is quite clear. Everybody in the world is undoubtedly discussing the world situation and coming to his own conclusions. We know that for the present the Government of India is in their hands, but that does not prevent us from considering our position in what he calls the world menace. Casually, we declared the other day, also at the point of bayonet, almost compulsorily drawn out from us, that in so far as the next world-war is concerned, India does not propose to take any voluntary participation. That statement stands, and we do so for good reasons. England's

enemies are not our friends, and we do not believe them, but we must regard our position having regard to the time that has elapsed. During the last war—I wish to remind my Honourable friends opposite and they could not have forgotten it—we participated cheerfully, almost generously, in man and money on a promise that that was the war for the liberation of the subject races of the world. This time in this pronouncement—I do n know how or why it was prompted—there is nothing th Indians can look for except what my friend in the en said—and I would quote his words—that they would b defending themselves in the most effective manner possible. We have no voice by the very Constitution that he talks of by which he claims all the rights and we all the obligations. It is not the kind of position that we can any longer occupy where you have all the rights and we have all the obligations, you have all the domination and we have all the subjection. That position demands that India must unequivocally declare that no voluntary participation will be given in any war in which Britain may be engaged for its own purposes. And we demand no more than the liberty which has been granted as the result of the Statute of Westminister to all the other parts—the more friendly parts—of what he calls the British Commonwealth. They can declare that they are not bound by the declaration of war. Further, they have at least a voice in the matter which we have not got. And if we are to be thrown into a war by means of a scare and nothing less than a scare, then it is a matter on which my friend will have to contemplate much more deeply before he raises this issue even at a more critical time in the future.

Preservation of Empire means subjection of India

The fact remains that we cannot any longer be drawn merely by the chariot-wheel, Roman or British,

even for the preservation of what they call their Empire. The preservation of that Empire means first and foremost and essentially the continuance of the subjection of India in order that they may call themselves the Empire. If the preservation of the Empire or the fighting in the war means that India, as their property, is to be protected from outsiders, then we certainly will be no parties to such a war at all. I will not refer to the more ominous words that I read this morning coming from another quarter of the world, but let it be remembered that if it is only a question of choice whether one would subject India or another, then, at all events, it is not a war in which we could have any direct, honest or straight-forward interest. We cannot be scared into profession of loyalty which we can only give when we realise that we are equals in the Empire, and not as my Honourable friend calls it in his language that the bounds of responsibility will be gradually widened so far as India is concerned. Unless those bounds reach the uttermost limits, unless those bounds mean that there are no bounds to our right to govern ourselves, India will not be a friend of England.

We don't want to fight anybody

There is another greater reason. So far as we are concerned, we believe that what you aim at, though you dare not hope for that with your methods, is goodwill, and without that goodwill amongst the races of the world there will not be world peace. Therefore, we do not want to fight anybody, but we do want to maintain the integrity of our home, and, so long as we are left with that as our own self-governing asset, England can count on the goodwill of India, and not till then. It is no use telling us that the next war will be a war in which the Empire will be engaged. We know it will be a war in which the whole Empire will be engaged. But

what is the part or lot that we should have in their success or failure? You have to realise it once and for all that we will not be thrust into it again. I have found often and often many men, hypocritical, not straightforward and honest like those at all events, of the nominated Members of this House not having to be coerced to walk into the Government lobby, if they are ordered to do a thing, they will do it and they will at the same time tell you that scare can work once, scare cannot work a second time. Scare may produce a national Government in England, but scare will not produce voluntary assistance from this country. Last time, you had a million men, you had £150 millions assistance, and also you had assistance directly or indirectly of incalculable value. It is not our desire, as my Honourable friend hinted, and I am sorry he said that we though unwittingly and unconsciously appeared to tell England's enemies that we do not propose to take part in the war with any ulterior purpose, but it is up to you to examine your own hearts instead of telling us to dispel suspicion. What can dispel suspicion? You govern India as you said by dividing India. That is what my Honourable friend calls stressing the communal tension. Well, if you govern India too long, you will pay the price which is deemed necessary. Remember that until you begin to realise that the stress which you do not like is the stress of peace, not between the Indian communities themselves, but between Indians and the British. We have every goodwill, we are by constitution, by tradition and by race all honourable men, however badly we might have been treated, but you cannot extort loyalty, you cannot compel friendship and you cannot coerce us into joining something in which we have neither a voice, nor a share, nor any benefit. It is for that reason that the fact that there is war cannot be a ground for merely avoiding the issue of having enquiries. I dare say that you tell us that some 65 odd lakhs are added to the amount of the award by the Garran Tribunal. I think it is a mercy for

which you expect us to be very proud. You are well aware of our opinion on that Tribunal. If you are not, you should have known that long ago. We always have held that not 65 lakhs, but much more was due on that account. I am aware of how the proceedings of that Committee were manoeuvred. I know that some of my friends on that Tribunal, under instructions from the Secretary of State, stated with one voice and the British Government speaking with the other voice—we had this farce of a Tribunal and the Tribunal was constituted no doubt of honest men. But the pleading before that Tribunal I cannot possibly call honest. I know how the whole thing was arranged. You know how instructions were given and how it ended in the award which we cannot possibly accept. I submit, Sir, the point that out of 200 odd millions of British preparations for the next war, a paltry sum of five million pounds are going to be used for the equipment of the Indian army is too much of a joke to be accepted as a great boon or a great gift. My Honourable friend thinks that we should get up and sing hallelujahs, which perhaps 20 years ago he might have got from a subservient House. But times have altered India, times have changed the world, but I am deeply sorry that my Honourable friend has raised issues of our being compelled to work under the new Constitution with goodwill. After all, do you expect goodwill so long as none exists in you and if you tell us that the army expenditure will not be lowered, and, therefore, it is useless even to discuss this Resolution, I say, with that attitude on your part, do you expect good will from us ? If that is the attitude of the Government, then can this House vote for the Committee, an official Committee which has been announced by the Finance Member ? The purpose of that official Committee, as Lord Esher's Committee also pointed out, is this : that the Indian army and the Indian defence is a part of keeping that part of the world as their property, not then, but even to-day. That is not the kind of Committee which will serve any useful propose.

That is not the kind of Committee that is going to examine the question from our point of view. Therefore, I say that what we are asking for is exceedingly modest. What we ask for is that my Honourable friend, the Finance Member, should have a closer and a little better control over his louder neighbour with whom he is sitting now, notwithstanding the fact that there is great amity of expression in his face which compelled him to abandon his own seat and seek a seat next to him. I recognise the identity, I recognise the necessity of the identity.

Goodwill cannot be enforced

As regards the second part of the Resolution, we do say that we desire a Committee to go into this matter which would consist of an elected majority of Members of this House and which will, on proper materials placed before it, make an enquiry and arrive at what we can afford to pay, not what Britain wants us to pay in order that they may conquer and keep us conquered and keep us dominated. Efficiency in their sense is different to efficiency in our sense, efficiency in our sense means maintaining the goodwill of the world more in self-defence, efficiency in their sense means aggressively having the world to cater to what they want.

Therefore, Sir, we feel that our duty is clear in the teeth of the declaration that he has made, namely, that there is going to be no reduction in the army expenditure, and the compelling manner in which he has asked us to work sheepishly what he calls enlarging the bounds of liberty—I read that in the context in which my Honourable friend, Sir James Grigg, used it, if we are going to wait for his pleasure to enlarge the bounds of our responsibility, he is very deeply mistaken. He has spent five years of his life in India for nothing, if that is the impression that he is going to carry to England as to our attitude as regards self-government in this country. I therefore, hope and trust that my Honourable friends will realise that good-

will cannot be enforced, goodwill cannot be compelled, suspicion cannot be repelled except by goodwill and friendship and establishing equality between you and us.

THE MOTOR VEHICLES BILL

17th September 1938

Sir, I take this opportunity of congratulating the House on the manner in which this piece of legislation has been carried through. I need hardly say that the clarity and the sweet reasonableness of my friend, Mr. Clow, mainly contributed to that result. Addressing my Honourable friends who differed from me on some of the matters included in this Bill, I wish to congratulate myself, if I may, on the manner in which they accepted my opposition. But the fact remains that there are two or three achievements which, so far as the House is concerned, I may safely call our own. In the Bill as introduced, there was intention, I will not call it a sinister one, to impose upon us the representatives of the Railways, and when I say us, I am talking of those who are now interested in those authorities which have been created in this Bill for the purpose of the regulation of motor vehicles or what is described in the Schedule to the Government of India Act, mechanically propelled vehicles. We have succeeded by, if you like to call it so, compromise, or if you like to call it so, by pooling our resources and even wisdom and have come at all events to this result that the motor vehicles and their regulations will be in the hands of those who would be best interested in the promotion of the road transport of this country. They have also acquired, what I have attempted to explain at an earlier stage while speaking of clause 42, an indirect and a somewhat elastic control over the railways. Doubts, undoubtedly have been expressed by my Honourable friend, Mr. Clow, that I need not expect too much out of this clause. But in our present conditions,

ly useful, perfectly helpful and perfectly comfortable in course of time.

An Honourable Member: Air conditioned?

Mr. Bhulabhai J. Desai: I do not like it. I have travelled in it once, and if it is abolished I will not be sorry except for the company I have had on that particular occasion.

But coming back to Chapter VIII, I quite agree that we have wisely decided that it should not come into operation for a period of some five years from now. There will be time enough to readjust things, there will be time enough also to see other changes which may bring the two systems of transport nearer and perhaps even centrally and singly controlled. Therefore, in all probability, that burden was not imposed upon the transport industry very wisely. My friends appear at all events by their conduct to be thoroughly satisfied with that particular consummation; so that, as I said when this Bill was referred to the Select Committee, so far as the safety provisions are concerned we might overdo them to some extent; and I think we have adopted a very reasonable attitude and to a large extent I must confess that my Honourable friend, Mr. Mitchell, was not too hard either because of his love for the roads or because of his hatred for road-hogs; and, on the whole, I think we have controlled the driver, we have made the vehicle fairly efficient and sufficiently less dangerous so far as the use in modern times of speed is concerned......

Mr. F. E. James: And Mr. Clow has been controlled!

Mr. Bhulabhai J. Desai: No; the only person whom I can congratulate, in addition, is my Honourable friend, Mr. James, and his colleagues who have escaped the speed limit restriction; and, if my friend will promise not

to drive the car at two o'clock in the morning, after some convivial evenings, as I have seen the results in the city of Bombay—he will probably find if he does not do so there will be an amendment shortly in this House next year. I have seen in the streets of Bombay trees uprooted; cars down and persons not identified having disappeared. But I believe this after reading the figures which have been read out to us and which we have studied—and when I think of the whole matter I think one can easily exaggerate—I do not deny that each human life has value and yet you cannot imagine that each time many thousands of cars—nearly a lakh in this country—move, some human being is necessarily and actually crushed. That is an unduly lurid, and wrong picture; and, therefore, while we may protect lives we may not in that effort unduly curb what is bound to happen in human existence by way of increase of speed. The time has now arrived when my friends can go from Jodhpur to Amsterdam if not to London in two and a half days. Under these circumstances, to talk of excessive speed appears at all events to a mere modern man somewhat of an exaggerated and lurid picture. But we have achieved this: one may claim it for this House that notwithstanding the perseverance of a firm that was temporarily created, which is now dissolved, the manner in which every question as it came before the House was dealt with—it is a great quality to fight to the last ditch—a quality which may be tested in the near future in worse circumstances than those with which we were confronted here. I, therefore, congratulate ourselves on the good temper with which this Bill has been carried and also on the efficiency and the usefulness of the measure which I hope and trust will be the forerunner of a real co-ordination between rail and road transport and I hope air transport. There is one other means of transport which I must mention, in this connection, and that is shipping; and I make a special appeal to my friends who have now dissolved the partnership that in course of time

and for our mutual advantage they will assist us in every measure by which those four means of transport will be so co-ordinated that India and England—at all events Indians and Englishmen—let us leave the countries out—can be better friends and serve the cause of India better by better understanding and by real goodwill.

LEAGUE OF NATIONS

September 1938.

It is by a mere accident that I happen to speak to you this evening on the question of League of Nations. Day before yesterday in the Legislative Assembly we were expecting to reach that resolution, but the Government and some friends manoeuvred to get us out of time by calling three divisions of seven minutes each so that the resolution may not be moved. I believe that even to-day with the lessons of the past, the Government is still very short-sighted—they cannot look beyond their noses. They do not understand that whether I speak in the House or outside, whatever I have got to say will reach the rest of the country. Therefore I think it was a short-sighted policy on their part to baulk us out of our desire of moving the resolution on the League of Nations.

The League's Origin.

Most of you are aware how the League of Nations came into existence, but if you are not I think it is just as well that I attempt to give a short account of how that institution came into being, in what condition it is to-day, and what are its achievements.

During the course of the Great War, when Germany was probably trying, as it might try again, almost the last throw of a gambler's chance, America came into the War. I am sure you all know that England is indebted, and so the

Allies as they were called in those days, to the efforts of a single man, who is not unfamiliar to you, Lord Reading.

He appealed to President Wilson in the name of liberty and independence for which America fought against England and won. In a moment of generous enthusiasm President Wilson responded to the invitation, and America came into the War. Undoubtedly the scales became uneven with the entry of America and the balance of the fighting Powers, their strength, their power of resistance and their equipment naturally altered. Though it was doubtful whether the Allies would win even after America joined, it must be confessed that it was the last pull which America gave which was responsible for the victroy of 1918.

Versailles and After.

As to the result of the victory and the events following it I need not detain you because I feel that it would be digressing perhaps too long on the examination of the Treaty of Versailles which was one of the consequences of the success of the Allies. The second result of the success of the Allies was the creation of the League of Nations. President Wilson believed honestly as he did in the *bona fide* intentions of the Allies who drew him and his country into the War, and believed that war was fought for the purpose of restoration of liberties of nations. He had an ideal of his own by which he believed that the nations of the world would gather together in a League for the purpose of establishing world peace. They drew up a Covenant, and an agreement between the contracting parties, which I will later on examine in some detail. India was then what is called one of the earliest and first members of the League of Nations, and had and has to-day a nominal independent vote of her own in all the affairs which come before the League Council. They solemnly agreed by Article 16 of the Covenant that should any member of the League resort to war in disregard of its Covenants

under Articles 12, 13, or 15, it shall, *ipso facto* be deemed to have committed an act of war against all other members of the League, which undertook immediately to subject it to the severance of all trade or financial relation, the prohibition of all intercourse between their nationals and the nationals of the convenant-breaking State, and the prevention of all financial, commercial or personal intercourses between the nations of any other State, whether a member of the League or not.

Maintaining World Peace

Therefore they solemnly pledged themselves that all persons had the same status according to which they became members of the League, and were jointly and severally responsible for the maintenance of world peace. They further agreed that should any of them commit a breach of the covenant, all the rest of them would stop intercourse, financial, commercial, trade and personal. It is true that in the covenant of the League there was no provision for fighting a war against any member of the League who might break the covenant. A question has since been raised whether it would not be better that all the members of the League should voluntarily disarm themselves and create and place a standing army at the disposal of the League which could always successfully fight against a defaulting member. Whatever the noble motives were when it came to voluntary disarmament and when it came to the creation of a joint force for the purpose of enforcing world peace, the League became more or less a pious debating society in the course of time, for while we were the first member of the League, having what is called an independent vote, immediately after the Covenant was drawn up this became our vote.

The Next Step

The Britishers went back to their country having succeeded in the war. They said to themselves, I am

sure, that if the covenant of the League stood unchanged then India could bring up the question of her relations with England before the League. So the first thing they proceeded to do was to make a declaration that the members of the League, between whom any dispute could be raised before the League and by the League, were independent covenantees. The immediate effect of this was that India lost her independent vote, became dependent upon Britain, and any question concerning Britain and India could not be brought up before the League directly by India. The direct result of this was that England succeeded in gaining two direct votes, one her own independent vote and the other India's dependent vote. We pay Rs. 14 lakhs a year for the maintenance of what is regarded as our share of the contribution for the preservation and continuance of the League.

Paid Propagandists - First Cousins of John

The other day one of the gentlemen who are maintained at our expense and with the help of our contribution came round to me when unfortunately we lost the chance of moving a resolution and challenging a vote in the House on the question of the League of Nations and said: "Sir I thank you for not pressing this matter." I am ashamed to confess that he was an Indian. I told him that it was not my desire not to press the motion and that was not what he meant. I told him: "If you feel that you have succeeded in preventing me from telling the Indian people what is the exact situation and where we stand in regard to the League of Nations, you are sadly mistaken," because there is a habit among a part of our countrymen who in whatever manner they find their living they seem to identify themselves with our oppressors in outrageous tyranny either on us as individuals or as a nation and it is one of the saddest reflections that on account of our subordinate subjective position those of our friends who at

our expense go into what is called the Government of India and its environments consider themselves the first cousins of John instead of first cousins of ourselves. At all events whether John considers them as his cousins or not, as regards the rest of the country they boast as if they are the first cousins of John. I am really astonished that an Indian, even though he was employed by the League of Nations perhaps as a part of a propaganda for its maintenance, should have dared to make the remark to me. It is a very unfortunate thing for India, because we have got to find 14 lakhs of rupees out of the poor country to maintain these gentlemen.

Haves and Have-Nots

I wish to give you shortly the history of the conduct of the League of Nations from and after its commencement in the year 1919. Remember that at that time Germany being humiliated, people believed that she was a second-rate Power in the world and she was not a member, but Italy, Japan and Britain were members of the League Each of them had ambitions, and each of them had an empire. And once you stipulate that no dependent nation can claim the benefit of the Covenant of the League of Nations, it is really a League of "haves" against "have-nots." The result is with their cumulative weight and strength the "haves" are able to maintain what they have. But that was not enough. The test came in a very short time.

China is a member of the League of Nations. Japan began to think that Japan was not wide enough for the purpose of maintaining her growing population, and she said as Germany is saying to-day "We have a population of 125 per square m. metre. We are ambitious and we must look for land elsewhere." She turned towards Manchuria for expansion. China appealed to the League and what the League did was to call a Council and for the benefit of those who have not read one of the most dramatic speeches

Two or three posers were put by my friend, the Honourable Sir Ghulam Hussain Hidayatullah, and I am aware, that to the two of those there was a loud and emphatic answer by the Honourable the Mover. But those do not exhaust the possibilities when questions arise from time to time for the application of a clause of this kind. And, may I here point out, trite though it may be, that when the Criminal Law Amendment Act was passed, words were used by which power was conferred upon the Government that any association may be declared illegal so long as they are satisfied that there is some purpose or a likelihood of a breach of peace behind it. Loud assurances were given at the time by those who represented the Government that those general words would be limited to violence against which the legislation was aimed, and the time came, during the last three years, when those words were taken advantage of by the executive for the purpose of declaring as illegal, playing fields, gymnasiums and even praying associations. I therefore, say, take caution against not merely being led by the fact that one or two illustrations might admit of an easy answer, but that the general words are of such a nature that they can always be canvassed for a sinister purpose, and who dare say that the meaning put upon it would not be that we shall not disturb the quantum or proportion once they are fixed on the first occasion. Therefore, it is not the assurance of the individual that matters. It is the document which is liable to have one or two dangerous potential constructions. If there is no occasion, if there is no need and if there is no advantage, why should we approve such a document and put our head into the noose which is prepared for us.

Feeling of Uncertainty

As regards Article 4, the portion that has been to a large extent canvassed and the most important point of it is this. It is not so much the right of hearing (of which my

Honourable friend, Sir Cowasji Jehangir, spoke) of which I am afraid, but it is the right of constant interference, almost of repeating every time that special conditions have arisen and thereby seeking to disturb the period or extent of protective duties in reference to certain protected industries if the duties happen to be inconvenient to Great Britain. Such questions will be frequently brought up. But what is still more dangerous is the introduction of uncertainty in the value of protection by the rights created in this clause. Let me put this to every Honourable Member of this House—what is the value of a protection granted for a period of time and limited in the quantum, if at every moment of time there is a risk and and a danger of the matter being reopened ? In other words, you almost destroy the value of the protection that you purport to give by creating a feeling of uncertainty. Therefore, care must be taken not to be misled in this matter that a right of hearing is one thing, but the right of interference and the right of raising the question of over-protection is unnecessary protection by contending that radical changes have taken place in the conditions affecting protected industries. Who dare say in what manner such a right could be invoked ? Is it competent to British industrial interests to come up and say that radical changes have arisen in the steel industry, that radical changes have arisen in the textile industry and that radical changes have arisen in the sugar industry, and, therefore, we want an enquiry whether protection should continue, and if so, to what extent in time and tariff. I appeal to the Honourable the Mover himself, understanding as he does business as well as politics, that the important thing in matters of this kind is the certainty more than the quantum and let nothing be done by agreement or otherwise which disturbs that sense of security for the period of time so that that industry shall be originated, be fostered and grown and, at the end of that period, be able to stand on its own feet.

No Business Sense

Now, coming to Article 5, notwithstanding the assurance of my Honourable friend, Sir Cowasji Jehangir, I wish to point out to my understanding what I shall *endeavour* to do is one thing and what I shall *bind* myself to do is another. May I put it again to the Honourable the Leader of the House, if he has ever read any agreement in which he would certify that when a man says I will endeavour to do a thing, it should be regarded as a consideration. I am quite certain he would want either a guarantee or a promise, that I shall do this or refrain from doing that. The rest is undoubtedly a pious hope which cannot be accepted either as a compensation or a consideration in the eye of law or common-sense. After all, it is competent to every man to say, I have endeavoured to get you advantage, but if you do not get it, I am sorry. That is the business-sense translation of Article 5.

Article 6 secures nothing new to India—I am emphasising Articles 5 and 6—because those are the only two Articles on which the Government, on their own showing, rely for proving some sort of compensation for entering into the Agreement. I am trying to closely scrutinise the Agreement, so that all extraneous considerations might disappear, and on the very Agreement itself it may be patent even to those who want reluctantly to support it that they are not doing the right thing.

Article 6: what does it say? It says:

> "His Majesty's Government in the United Kingdom undertake that, in accordance with the principles of the foregoing Article, the privilege of duty-free entry of Indian pig iron into the United Kingdom will be continued so long as the duties applicable to articles of iron and steel imported into India are not less favourable to the United Kingdom than those provided for in the Iron and Steel Protection Act, 1934, without prejudice however to the provisions of sub-sections 3 (4) and 3 (5) of the Indian Tariff Act, 1894, as amended by section 2 of the Iron and Steel Duties Act, 1934."

That, at all events, guarantees to India nothing more than what was already the subject of a prior agreement.

One-sided Agreement

Now, Sir, taking the six Articles of the agreement, what do they resolve themselves into ? Article 1 gives nothing, but attempts to take a great deal. Article 2 gives nothing whatever. Article 3 takes everything that they can take. Articles 3 and 4 are a deliberate inroad on the unfettered right and privilege of any country however subordinate politically it may be. Articles 5 and 6 confer nothing on India. If this is what is called an agreement, it certainly will not pass muster in a Court of Law, it certainly will not pass muster in any common-sense market, and I am sure, this is recognized even by the Honourable Members of the European Group, but unfortunately, on account of their amphibious character, they cannot help taking the stand which they have taken. Their one eye is turned towards their interest in India, but their other eye is turned to their kith and kin in the United Kingdom, and I am not surprised at the difficulty in which Mr. James and his colleagues find themselves in supporting this agreement.

Scrap it

If this agreement was merely required for the purpose stated by the Honourable the Mover, that it embodies nothing more than what exist, then, I submit, that it is superfluous, and please scrap it, but if it is not superfluous, then undoubtedly it has got to be examined as to whether or not there is a gain and whether there is loss, and, if so, what and on what side. I am afraid, the Honourable the Mover protested too much when he said that there was nothing in the Agreement except clarifying crystallising and defining what existed. If that is so, let him withdraw this, what he calls an agreement. I have never yet heard that an agreement was required merely for the

purpose of clarifying. An agreement is for the purpose of give and take on both sides.

The fact is this, and to put it very shortly before the House, we are called upon to legalise and to regularise acts of high-handedness and one-sidedness on the part of those who wield executive and political power to the detriment of ourselves and by this document we clearly gain nothing, but we lose a great deal. On the grounds I have put forward before you, and without reference even to the supposed political advantage, to which I attach no importance, or even taking that into account, I ask you to judge the Agreement as an agreement as businessmen with commonsense, as men of the world and as guardians of the interests of those who have returned you to this House and say in no uncertain voice that the Agreement shall not have your approval.

J. P. C. REPORT

5th February 1935.

Mr. President: In rising to move my amendment I speak under a great sense of responsibility. The honourable mover in his short address has not given me the advantage of explaining what it would have been possible for me to do, except that he was pleased to describe me, at all events the amendment for which I stand, as destructive. I have been familiar with many phrases, both in journalism and in public life but I wish to remind him that the trinity, which he and I worship in common—the creator, the preserver and the destroyer, is typified in human life itself. It is the embodiment of soul which consumes itself in its activity only in order to recuperate itself from time to time and if we destroy at all, we shall destroy only in order to build better. It is in that spirit that I rise to move the amendment that stands in my name and in

doing so, I shall pursue, with humble deference, the course that has been adopted by the framers of the J.P.C. Report which in order to save the time of the House I shall hereafter refer to as the "Report." In paragraph 10 and 11 of their report, they refer to the conditions which according to them have necessitated the investigation of the conditions of India prevailing during the last five or seven years in order that a new constitution may be framed. British rule in India in its first impact of conquest necessarily produced almost a willing submission and an acceptance of British rule as if it were a beneficient event. Time came after some education when people began to consider whether that beneficience had not been exaggerated and the generation that went past before this looked upon British and Indian connection as a providential relationship; Maharshi Ranade and his group who in their philosophic outlook on life believed in the application by Britain of the eternal principles of justice and fair play held that in the fullness of time it would not be necessary for India to struggle to get what was her right but it would be admitted freely and ungrudgingly by Britain. That generation has passed away disillusioned not so much because their philosophy was wrong but because events did not come up to what they foresaw in an undoubtedly happy vision. The events during the last 30 years of British rule produced a reaction—a reaction of which it is not necessary to make a grievance but which it is necessary to examine. India joined Britain in fighting the Great War by placing her men and her resources at the disposal of Britain. We fought for the freedom of Britain but we were also told then that that was not the only direct objective and that the war was fought for the establishment of the principle of self-determination of subject races of the world. Promises made from time to time during the course of this great struggle have a tendency either to be forgotten or to be repudiated or to be whittled down. That unfortunately is the sordid course of human history. The result has been that by reason of

that self-determination not being put into actual force, a time came when, replacing the two earlier attitudes, viz. the recognition of British rule as a beneficient fact and a providential belief that some great events would occur to restore us the freedom,—the third stage was reached in Indian history, in the history of British rule in India. That is the state at which we now stand to-day, the stage of struggle in the hope and in the belief that at least it will show the earnestness of the people of India to deserve what they desire, namely, the self-Government of their own country and their affairs. It is that last phase of the struggle on which we are now engaged and it is to the credit of those who were formulating the report that they have mainly accepted the basic propositions (except one with which I shall presently deal) for which I stand and it is those basic propositions with the said exception by which I propose to test the constitution that is now in the making. In paragraph 10 of the Report, this is what they say:

"By giving that State a Government disinterested enough to play the part of an impartial arbiter, and powerful enough to control the disruptive forces generated by religious, racial and linguistic divisions, it has fostered the first beginnings, at least, of a sense of nationality, transcending those divisions."

They go on to say:

"It has favoured the growth of a body of opinion inspired by two familiar British conceptions; that good government is not an acceptable substitute for self-government and that the only form of self-government worthy of the name is Government through ministers responsible to an elected Legislature."

And they conclude by saying:

"History has repeatedly shown the unwisdom of judging the political consciousness of a people by the standard of its least instructed class, and the creation of the British

Empire, as we know it to-day, has been mainly due to the fact that, for the last hundred and fifty years, British policy has been guided by a more generous appreciation of the value, and a juster estimate of the influence, of what is sometimes called a politically minded class."

Religion Has No Place In Politics

We are therefore face to face with issues, the tests of which are not in any controversy between those who have recommended the constitution and those like me who recommend to the House that it should be dropped. In the forefront of this discussion, I desire at once to repudiate the correctness of one statement which I have read out to you, that religion, race or language raise differences which have a disruptive effect in human society as is claimed. The histories of the world to-day and of its greatest democracies are evidence to the contrary. The only things that unite the national consciousness of a people are political and economic interests. That fact is borne out by the greatest democracy of the world, the United States of America where men drawn from every race in every single part of the continent of Europe to-day still stand as one great solid political unit respected and feared by the world. Then as regards language, I have yet to learn that language has anything to do with division between the races for purposes connected with political unity.

Even that little republic of Switzerland in its small parliament, many of you will remember, bears witness to the fact that at least three languages are spoken for purposes of conveying thoughts of common concern to the people. I am therefore one of those who do not believe that diversity of language or race has got any relation whatever to the necessities of a political and economic unity; and, coming to the last point, I hold that Religion should have the last place in creating any diversity in the matter of Nationality. I have

always held, Sir, with a faith which nothing has shaken, that religion is a matter between man and God and that it cannot be debased for purposes of the division of spoils of a mundane nature that religion has its proper place and should be kept in its proper place, and that if religion is ever used for the purpose of dividing man from man, dividing Indians from Indians in order only that political domination may be maintained, sustained or confirmed, I hope and trust that every single Indian present here, whatever may be his faith or creed, will give a unanimous lie to that proposition, and that he will not allow himself to be or used as an instrument, merely because he professes a particular faith merely because he professes a faith different to the faith of another of our own subjection. It is for this reason, Sir, that the Congress has taken up the attitude that it has done towards the document which is called the Communal Decision or the Communal Award. Sir, we fully appreciate and we fully realize what has happened as an historical fact during the last some thirty years. Perhaps many of you are aware that it was in the year 1906 or thereabouts that the first question was raised at all that individuals professing a different faith should have representation on that basis in any of the public Assemblies of this character. Since that event some thirty years have passed and that suggestion which has always an insidious tendency, to harden and strengthen and almost the very poison which it contains has a soportific effect for the time being. That, Sir, is the condition in which we found ourselves when every time the question of the constitution came up before the country, and that is how the question of separate electorates has been raised from time to time. I am quite certain that apart from any question of just and adequate protection of minorities no difference can ever possibly exist between the political or economic interests either of a Hindu or of a Mussalman, a Sikh or a Christian, a Parsi or a Budhist for, indeed, how can it be otherwise? Can it ever be suggested that between two owners of two

neighbouring fields, merely because one is a Hindu and the other happens to be a Mussalman, that there is something written on the face of the field as to its productivity, or that we are going to compete against each other in paying more or paying less to the Government merely because it happens that one professes one faith and the other professes another faith? Has that ever been suggested? Has it ever been said that my friends, for indeed I have no other designation for them, my brethren, my Indian brethren who merely happen to profess another faith, stand less for the freedom of our land? Is it the sole purpose of one section only of India that freedom shall be attained, and can it be, therefore, that, on that ground we shall ever divide, that our sacrifices will be any the less united in that great cause for which we stand? I say, therefore, that in so far as destructive, the alleged disruptive influences are sought to be attached to and are sought to be extracted from any difference in race, religion or language, I hope the House in the course of this debate and the rest of the country will give the lie to such an entirely erroneous proposition the fallacy of which requires only to be stated for its repetition but which has been by a process of repetition inculcated, accepted and repeated even by some of those who call themselves sometimes the educated people of this country. I stand up before this House therefore to say that, in so far as that communal decision is concerned the position that we take is the only tenable position inasmuch as we claim that we do not look at this issue from the point of view of a section of the people who profess one religion rather than another. We look upon it, we choose to look upon it from a broad national point of view... The only result of a different course of action will be to admit the contention of those who claim—and I am claiming to quote the words of Mr. Baldwin during the last debate that so long as Indians divide, "we have a right to rule." You must therefore remember that

those who raise this issue must beware of the consequence that, in the narrowness of their vision, which they bring to bear upon these issues, and in the futile discussions which they raise, they do not play into the hands of others; and let us therefore not dispute before we acquire. Sir, the natural process has been reversed; all processes of nature and common sense have been reversed. Sir, we begin to dispute about the distribution of what we have not! Shall we not place acquisition first and the distribution next instead of the very reverse and obviously injurious process which is engendered by this type of conduct? It is for that reason, my friends—and here I appeal to all the sections of Indians, be they sitting on the Benches opposite or the Benches with me or the Benches in the middle. I have a word to say to my European friends later on at the end of my address but so far as we Indians are concerned, I ask you to endorse the position that we have taken up, so that we may not continue to dispute in order only to serve and play the opponents' game. I use the word "opponent" in no blameworthy sense, but undoubtedly in so far as this constitution is being forged by another, it is only in that sense and that sense only that I call the other party the opponents during the course of this debate. It is for that reason, Sir, that we have ventured to take up the position that instead of poisoning the discussion, instead of diverting the discussion, instead of clouding the discussion of the real issue of the freedom of India *vis-a-vis* Britain, let us set aside with a breadth of vision in looking at the question, this separatist tendency. I have not the smallest doubt, Sir, that even during the course of this debate my appeal will not fall on deaf ears, that motions should not be moved in that light-hearted way but that instead we should prefer that motions for acceptance as well as motion for rejection of the Communal Decision should both be withdrawn from the field of the controversy here. But even if that consummation were not to be reached, I have no doubt, Sir, that both

those important motions can easily be moved simply without any speech, without any bitterness, without any antagonism but merely by expressing the view and, if need be, by merely calling upon the House to divide and express their verdict upon it. That is all that I have got to say on what appears as the second paragraph of the amendment for which I stand; and I have not the smallest doubt that I shall have the sympathy of every single member of the House in the appeal I have made, and, I hope, it is never too late, so that we should not controvert amongst ourselves but try and consolidate our ranks so as to stand as one man, as one Indian and so that our consummation and goal may be the more easily achieved.

ALL AMENDMENTS FOR REJECTION

Difference Only of Degree

Coming, Sir, to the next part of the amendment standing in my name, there at all events all controversy seems to have been laid at rest.

The Hon. mover said in his inimitable description, as he is apt to do in a court of law in many a case that he has won, that there is little or no difference between the position for which I stand and the position of my friend Mr. Muhammad Ali Jinnah. I am really very glad that it is not merely a matter of compliment but it gives me the strength and alliance which I value and welcome. But more than that, reading over all the amendments it comes to this. After all, we have to translate the matter in a language with which I am somewhat familiar and with which the Hon. mover is even still more familiar. Here is an offer of a constitution the terms of which you have before you both in the report and in the Bill. All the amendments taken together will in any court of law and in any court of commonsense must necessarily amount to

rejection. We may pretend that we do not reject but in the eye of the law and in the eye of commonsense if you do not give an unqualified acceptance to the offer, if you make a counter proposal, then it cannot be anything less than the rejection of what is offered. Therefore, in order to give, if I may, without any presumption the lead for future discussion whether my friends say: "I do not like so much, or I do not like so much more, or I do not like so much more and more or I do not like it at all," each one of them, at all events, rejects the offer made. That, I am sure, even the legal head of the Hon. mover must necessarily concede to me. Therefore, so far as the differences between us are concerned, they are only differences of degree, but degree in this matter is a matter of no cousequence. What matters is that all of us are agreed for one reason or another and on one ground or another, for more or for less, that the constitution as offered is not acceptable to the bulk of the people of India if not to the entire population of India. Now, Sir, may I ask myself, only for the purpose of finding out a solution—what is the purpose of any governing power in forging or offering a fresh constitution at all? It cannot be merely a sense of agitation that from time to time we must revise what we have done. It must have a much more definite and a much more useful object than a mere desire for change. And when one revolves in one's mind the necessity of legislation of this character, there are only two sets of conditions under which such an occasion must arise. The first and foremost is the demand by the people for a better constitution to which they would be reconciled and therefore accept it and the second an emergency arising out of the inefficiency of the constitution that is in being. If either of those tests is to be applied to present legislation, is it not perfectly obvious that it is futile to carry on with it. Sir Samuel Hoare himself the other day acknowledged—and the matter is writ large in certain portions of the report under discussion—that for one reason or another the bulk of the Indian people do

not seem to appreciate or require the constitution that is offered. Is it, therefore, put down merely in order that it may please the vanity of individuals? We have had investigation for a long period since the appointment of the Simon Commission in order to find out the wishes of the people and in order to find out what is the nature of the constitution, which, if framed at all, is ever going to do any good, for, after all, a constitution must serve one of two purposes. Either that the people accept it and reconcile themselves to it and therefore there is in it that element of harmony between the rulers and the ruled which will undoubtedly lead to the progress of the people, or a consciousness on the part of those who run the Government that whether the people want it or not, the present constitution is such that it is not worth while carrying on with it any longer. Not only that, but the opinion of the country has been tested in many ways. Fortunately an event occurred during the last six months when, though the other Councils still remain in the hope that the new constitution might come into being, this Assembly was dissolved. And on the dual issue which I have incorporated in the amendment now before the House, we went to the polls. Whatever may have been the expectations or the diffidences, the fact remains to-day that the country has registered its unequivocal, almost unanimous verdict, that the constitution that is offered has no purpose to serve in so far as the Indian people are concerned. These, Sir, are the undeniable facts apart from the merits of the constitution itself.

WE ASKED FOR BREAD

But We Got Only Stone

Coming to the merits of the constitution, what is the position? If time permitted, I would indeed be too glad in so far as in my lies to examine the document, long though

it may be, with the forbearance of the House, but I know my indulgent limit of time and I do not propose to exceed it. But I will take the fundamentals involved in the constitution which is now before the House. You had three Round Table Conferences. This is not the time or the place to discuss their nature or character for I do not believe in an empty regret of any kind. Undoubtedly, we asked for a Round Table Conference, a Round Table Conference in the proper sense of the term where the representatives of Britain on the one hand and the representatives of India not official or constitutional representatives in the sense in which the Hon. Sir Joseph Bhore spoke about himself and his colleagues in answering questions this morning, but true representatives of the people, on the other, should meet in order that a constitution may be forged in order to reconcile the interests of both. But that was not to be—Where we asked for bread we got stone. The results of those Conferences are the disillusionment of perhaps its greatest exponent, its greatest supporter, my friend Sir Tej Bahadur Sapru, who came and said: "The course of events has shown me that my only proper place is the obscurity of a provincial lawyer." He is neither obscure nor provincial. But if it gives rise to feelings of this character in a man of that highmindedness who intended to assist to the best of his ability, irrespective of his unrepresentative character, which he himself frankly and candidly admitted, if that is the feeling that is inspired by the efforts that were being made at the Round Table Conferences, then its value is easily appraised. That is how the matter stands as far as those consultations are concerned. He also declared: "I shall not have any constitution for my country which is divided into parts, which is capable of being examined in parts and which is capable of being received or rejected in parts." He further said: "I shall not have any form of provincial autonomy unless I have the fullest and the truest responsibility in the centre.

REALITY OF THE CONSTITUTION

No Power for Elected Representatives

That is the test that Dr. Sapru laid down and there indeed there is common ground even though as he himself admitted he did not go there in a representative capacity. We are therefore no longer in a stage of tutelage, no longer in a stage of spoon-feeding, no longer in a stage where we admit that we shall go step by step and very often two steps backwards and therefore we shall never move forwards at all. Therefore it is that the first test which I shall bring to bear, with your permission, is the test of the reality and the integrity of the constitution as a whole. The second test which, with your permission, Sir, I shall apply is whether there is any real transference of power to the representatives of the people. For it is easy to suggest that you will have all elected representatives, but what is the use even if the best representatives that are elected, after their election, have no power or authority for the purpose of advancement of the progress of those whom they represent. It is therefore easy to suggest in journalistic language that you have a broad-based constitution, but as you are well aware, Sir, even a few words by strokes of pen can take away ninety per cent. of what is apparently given and that is what has happened in the present constitution. Taking the two tests, Sir, I begin with what is called the central Federation that is proposed. For very good reasons I do not propose to refer except perhaps just in passing to the part that the Indian Princes will share in the making of Federation which is visualised in the constitution. It appears from the Press, it appears from whispers which often become very loud noises that the Princes do not seem to be very much impressed with the utility of this Federation. They say, irrespective of their own advantage or disadvantage, the British Indian does not seem to look upon them as convenient or adequate partners

of such a nature that we can be clubbed together. They seem to think that there is a necessary inconsistency between an absolute monarchy or in the Greek sense despotism which they represent and the progressive state which British India must necessarily represent. However, we leave them to their judgments. It is not for us to dictate to them as others may. All we can do is to show them the line. But coming to ourselves, what is it that is done, by a single stroke of the pen. After all there are five aspects of every Government worth the name. (a) The right of external and internal defence and all measures for that purpose. (b) The right to control our external relations. (c) The right to control our currency and exchange (d) The right to control our fiscal policy. (e) The day-to-day administration of the land. These are the aspects which principally compose any Government. You may forge any constitution you like, you may have 300 or 400 sections of an Act, but these five aspects sum up the outlines of of every single constitution. Looking at it in that outline, by a single stroke of the pen, call it reserved subjects or by any other name, what is it that is taken away and what is it that is left. You shall have nothing to do with external affairs. You shall have nothing to do with defence. You shall have nothing to do, or for all practical purposes in future, you shall have nothing to do with your currency and exchange, for indeed the Reserve Bank Bill just passed has a further reservation in the constitution that no legislation may be undertaken with a view to substantially alter the provisions of that Act except with the consent of the Governor-General. It also appears from the Bill as it is drafted that our greatest national asset to wit, the State railways of India are going almost to share a similar fate in so far as we have or can exercise any authority or power or control. That leaves us still with the "discretionary powers," the "special responsibilities," the veto which exists as a representative of the Crown, but more than that the positive power of individual personal legislation, the positive power

of enthroning himself on the very throne of India itself as an absolute and sole dictator. That is the central constitution. Added to that, you have two Chambers including elements which time does not permit me to examine in detail. The fact therefore remains that there is no real power conferred in the Centre. With what sense of responsibility, with what sense of honour and with what sense of self-repect, and with what hope we could look forward to the future under such a constitution. In so far as control and authority over questions of defence and army are concerned, it is a lamentable fact that it is not merely a a question of pounds, shillings and pence, (though that itself is the greatest burden that India has borne, patiently borne during the last some 150 years) but it is the moral aspect from which we have to look at it, namely demoralising the race which is the greater and the more insidious source of ruin. It must be remembered and it is admitted indeed that we have all the talents in individual man. Are talents wanting on the other side in those of my race who stand and form part of the present constitution? You can find Indian administrators, you can find Indian soldiers, you can find Indian economists, you can find Indian scientists and yet how does it happen that with all those talents, the one thing that we do not find is that those put together do not compose and solely form the self-government of this land. It is the incubus from the top, notwithstanding the possession of all those talents which prevents each of them functioning to the best of his ability and it is the daily deteriorating strength and intolerence of the human mind which it is for us to arrest and restore and it is for that than for any other reason that I stand here before this House to emphatically say that notwithstanding the talents it is that domination and domination alone which prevents you being what you are and of which you have the capacity of being in your own land. This is a true picture of the Government of India under the proposed constitution. That is the Government that is offered you. That is the Govern-

nomy of the type that I have described, this House is faced to-day. And that is what the House has got to consider. I have now to say a word to my friends, the Europeans, whether they are in the services or whether they are outside it, for both elements are represented in this House. If they are true to the traditions of their great race, if they are true to the promises that their race has made, if they are mindful of one small event, I hope they will remember that it is the wealth of India and the markets of India which have given Britain the place that she has among the races of the world to-day. For indeed, they are well aware of the historical fact that it is the wealth and the markets of India coinciding with the invention of the steam engine and the spinning-jenny which have placed them in the world's races where they are. It is not gratitude I ask but may I not appeal to them that they might do to us what we did unto them? At any rate, so far as we are concerned they have had enough and more for their growth and their strength, their power and their ability. And is it not time now that they should join their Indian brethren in demanding that the time has now arrived when, having got all, having not more than all for establishing themselves in a premier place in the world, they should take the credit in participating in our demand that India shall be free and immediately free? I think I can justly demand it of them. On this historic and critical occasion I feel that whatever happens,—for indeed, I am aware that defiance to the will of the Indian people has not been uncommon—to-day I speak with earnestness, with humility, and I hope and trust with sincerity, so that you may judge the amendment that I have placed before you in the spirit in which it is presented. I am sometimes reminded of what Frank Harris wrote in speaking about Bernard Shaw, "Give the Englishman a formula and he will do anything, right or wrong." I do not wish to believe the cynical observation on a cynical great man, is not true of the bulk of Englishmen.

Let them not trot out the protection of the millions for indeed they might as well claim the trusteeship of the world. It is up to them now to meet us as equals and as equal men and assist us in the great task and properly assist us ungrudgingly and unequivocally in building up the true freedom of India. That is an appeal which I trust will not fall on deaf ears, notwithstanding the fact that by reason of their official position as to some of them they may be committed to a particular view to support. But may I humbly ask my European trading brethren here for whom I have every respect and whose interests are perfectly safe without the provisions against discrimination which only shows the state of mind in which they are instead of charging us with suspicion and distrust, have you really so ruled this country that you yourself have created, at all events in your mind, that when India is free there will be a retaliation for your wrongs? If that is what you think, you testify to your own condemnation. If, therefore, you believe that you have ruled us as you claim to have ruled, justly and well, then this claim for protection against discrimination with reference to your properties and rights and with reference to the maintenance of the continuation of your exploitation are wrong in themselves.

Sir, I wish to say one thing more that whatever happens let this certain voice of India go out that this constitution is futile and does not serve the purpose of reconciling them, and I am quite sure does not serve any purpose that Government have in their view. And if that is so, may I appeal to the House to say that even if we have no power to compel the grant of what we want, we have certainly the self-respect to repel what we do not want?

SPEECH ON GENERAL BUDGET

7th March 1935.

Mr. President, I have the honour to move:

"That the demand under the head 'Executive Council' be reduced to Rupee One."

In doing this, I am fully conscious somewhat of the irony of the situation which has resulted from the nature of the Constitution under which the Government of India is being carried on. If it were possible, and if it were a different Constitution, the cut motion would not apply itself to those who are subordinate to the Members of the Executive Council, and, I presume, assisting them very ably in the discharge of their administrative functions. But the convention of the House appears to be that it is only in that manner, being a votable item, it is competent to me to raise the questions which I have the honour to raise before this House. Under the Government of India Act, the estimated annual expenditure and revenue of the Governor General in Council has already been laid in the form of a statement before this House and has been the subject of a general discussion during the last two days. I have deliberately refrained from intervening in that discussion, and, whatever I have got to say, with reference to the general policy relating to the raising of monies from the Indian people or its expenditure, I reserve for another occasion which I understand is available to me when the question of the Finance Bill is before the House. But I cannot possibly introduce the subject which I wish to deal with, without, in general terms, referring to the budget that nas been presented. Some time ago, I happened to read a book which I think was canvassed at considerable length in almost all the countries, because it was translated into many languages—it was a book which was a compliment to whom and it was a book written by a man whose name, as an intellectual entity of the world, is not unknown. When Bernard Shaw gave an exposition of what Socialism meant, he did not do so like the earlier masters in their style : but he gave a name for the purposes of the exposition of that subject to a book which he wrote, called

"The Intelligent Woman's Guide to Socialism"; and, I think he did that not so much out of compliment to women, but in order only that these subjects—adopting the phraseology which belongs to the Mover of this motion and omitting all technical jargon which it is not often possible to understand—the affairs even of a State containing a population equal to one fifth of the human race, may be understood without much difficulty. The budget that has been presented to you—and I shall only refer to it in passing, in order only that I may come to one of the members of that family group to which I will confine myself today—I say the budget that has been presented, following the great master whom I named, appears to me somewhat in this manner: it strikes me as a family budget; for, after all is said and done, whether it is the ways and means or expenses of an individual or family or a group or a company or a country, its main aspects must necessarily be the same. The manner and the persons from whom the money is raised and the way in which it is proposed to be spent—and that, after all, runs through all forms known by the names of balance sheets, budget and account keeping of every sort,—and when I consider the budget, the way in which it strikes me,—and that is how I wish to present it to the House in the somewhat familiar manner in which it is possible to look at these somewhat difficult or said to be apparently complicated issues.

Parasites and the Budget

Here is a budget in which some 86 crores are raised from the people, estimated to be got out of them during the course of the next year. A little less than that sum is also said to be spent during the same year, and the way in which the allocation of the expenditure is made reminds me somewhat of an analogy which I hope and trust will not be treated or regarded as offensive in the least degree. I have known in organic life, either in the biological or

even in the vegetable kingdom, a class of growth familiarly known as parasites, and indeed that class always comes up first for whatever source the vital elements are drawn, either by a tree or by an animal. And, in this particular case, let me, Sir, with your permission, point out the salient aspects of how these parasites propose to work. First comes along the Commander-in-Chief, but I would call him in the familiar language of the analogy which I propose to adopt, as the *Durwan or Chowkidar* of the house, and he says to you,—"at the risk of the security which you have you will have to allocate to me half the money which you have raised this year". Then comes in,—I say it without any disrespect,—a class of *Munshis*, otherwise called the Civil Government of this country, who come in for the next large share of this money. Then come in, to a certain extent, people in lesser position including the coachman, the transport officer. But the result of it all, that is, when all is said and done, except in some cases where it happens to to be three or two crores, the bulk of the 86 crores is taken away by the persons whom I have named. Then, the family consisting of ourselves is invited to a discussion. Having determined what they wish to take, having determined how they wish to spend, having also the power to restore whatever little that remains, they say: "Now, you members of the family who have to put in the money by your toil, come along and join in our discussion, otherwise why are you here?" Indeed, I congratulate my friend, Sir James Grigg on his sense of honour, because he said that this budget has come out unscathed and unchallenged. Unscathed it has come out, because we have no sword in our hands to cut it, at least an effective sword to cut it,—unchallenged indeed it was, because it was easy for him to say: "I want a little less than 86 crores, I will leave you a little which I shall presently consider, but why do you challenge the rest? Either you have not the power, or to the extent to which you have the power, we have a superior power to overcome you"—that indeed is the

sense in which he meant it when he said that the budget has come out unscathed and unchallenged. But, at the same time, if we are here to any purpose at all, it is up to us to understand what is it that it means. It merely means this, that when the family has come round, out of all that they put, they say: "Oh, but I have a little for you for Aviation", a class to which the bulk of the family don't apply and don't care for,—"I have a little for some departments in which we are carrying on investigations for your benefit, and I have out of the nine thousand lakhs, about a hundred lakhs to be distributed between the different provinces of this country in order to re-construct, ameliorate the condition of the people, the bulk of whom have provided the money". That is the kind of budget that is being presented to the House, and it is said that we are so stupid, that we, year in and year out, complain that the budget is what it is. Stupid indeed we are. We are not stupid, because we have not the intelligence or, because we have not the emotion; we are stupid, you dare to call us so. And this reminds me of the manner in which a question was answered by one of the Honourable Members on the other side of the House when an inquiry was made as to when, according to the estimate they had formed, the Indianisation of the Army was likely to take place, and the only answer he gave was—and I congratulate him upon it—" none but a congenital idiot would ever believe that there was ever going to be a complete Indianisation of the army in India".

The statement has been made, I say without any disrespect, by an Englishman who speaks his own English language, but I refuse to accept that there was any genuine amendment. I was bound to give way at your request, Sir, but I do not think that any substantial alteration in the statement I have attributed to him has been made in the re-statement that has been made by the Honourable Member. Never mind, Sir,—who is the congenital idiot? That is a

problem, that is a puzzle, we shall find out in due course of time; but, if it happens to be so, all I can tell him is that we are not idiots, at all events we are not congenital idiots, and if idiots we must be, idiots we shall appear, until time arrives when either we or they shall not be here to hear such a name at all.

Same Woeful Tale

Now, Sir, I have already told the House how the money is spent; I have told the House the spirit in which the whole of the Government works and that is the reason why I rise now to support the cut that I am moving. And after all is said and done the mere fact that a subject race or their representatives have got to get up year after year to tell the same woeful tale cannot certainly lose its force merely because it has got to be repeated. I thought, on the other hand, *if* there *was* any sense, if there was any judgment in those in authority, the very fact of the repetition ought to rouse what *little conscience* may *still* be left in those who behave in the manner they do,—it is not to the individuals that my remarks are addressed, though undoubtedly sub-consciously their minds, their actions, their thoughts and their words are expressed in that manner, times without number. I have sat here for a little over six weeks; I have heard every time a question being answered, I have heard every time a request being made, and I have known and I have appreciated the spirit in which this country is being governed. It does not matter, but for the moment I am going to confine myself entirely to the administrative policy and the administrative acts of the Executive Council which the subject of the motion allows me to do. Now, in doing that, I wish to divide the subject into two parts. I propose to take first, and so far as in me lies, I shall deal with it also in a fair way,—I am one of those who believe, after the patronising sympathy we get, that there cannot be much serious difference of opinion be-

tween us and those who sit on the opposite side, that in the matter of the numerous branches of the national development, India is perhaps today in a most dangerously weak condition, and if we are going only to produce the money in order that the machine of the Government may run, in order that the military and civil mercenaries may thrive, it almost reminds me of what a friend told me the other day. In asking a question, in order to be able to answer it properly as to the place of man and his dignity he said, was sabbath made for man, or man for sabbath, and in the language of the opponents, sabbath was not made for man, but man was made for sabbath. India was made in order only to present an ideal of supposed efficient government, in order only that they may flourish and Indians may languish. That is the nature of the budget, that is the nature and the spirit of the Government. Indeed, we would be wanting in our duty to ourselves if we engage ourselves, as we are asked to do in entering into small details--why not say how these ten lakhs are to be spent, why not say how the other 100 lakhs are to be spent, and thereby evade the larger and the more vital issues with which we need be concerned if we are going to make any real progress at all. Not that I have no sympathy with those who raise different questions under different heads, but, at the same time, I owe it to the position which I hold in this House, that I should rise above the smaller questions into which I would naturally be drawn and drawn to no useful purpose. The position, therefore, is this. We here provide all the monies that we can raise in order only that the machine of Government may run, but in so far as the people are concerned that is the problem of every Government, though it be even a subordinate Government—how does it concern itself with them, how does it concern itself with their food, with their clothing, their health, sanitation, shelter, education, everything that makes the life, not of the men who are comfortably off and cannot understand, but of the average human being in this country? It is that which is the pro-

blem. The problem is not how the outward forms of the Empire may be maintained for the benefit of the gazing world, the achievements of an Imperial Britain. That is not the problem to us. The problem to us is a single problem, notwithstanding the time that has gone, notwithstanding the multi-millions that have been raised.

Patronising Attitude

The Honourable the Finance Member has been congratulated for having graciously set apart Rs. 100 lakhs for going round the provinces in order to reconstruct the village life of the people. I am one of those who believe that you have constructed it all wrong. You ought to have constructed it on the broad basis of the foundation of the village life instead of the high edifice of the outer shell that you have created. It is not for that for which we live, and that brings me to the manner in which the administration has been carried on with reference to the relation in which the Government for the time being stands in relation to the people at large. In relation to the people at large, how have they stood during the year under review? During the year under review, and perhaps a year or two before, they were faced with what they did not very much like, which indeed in the earlier stages they wanted to vilify, to laugh at and condemn, but which it took them nearly two years to fight and suppress, and I am here today. If we are to be met in the spirit in which we daily are treated and in which all our resources are daily exhausted, you will be, not we, you will be the true originators of a genuine mass revolution which would prevent you from saying what you say and then alone would you probably be able to understand whether or not all this patronising attitude, the manner in which every rupee of mine is being spent, the manner in which every ounce of gold is taken out of the Indian mass—it is only then that you will understand what mass means, and not till then. It is they who are

"The powers which the Governor General will possess of taking action in virtue of his special responsibilties (including, of course that to any matter which affects the Reserved Departments) must extend to the giving of directions to the Railway Authority....We have considered the question whether the statutory basis for the new Railway Authority should be provided by the Constitution Act or by Indian legislation. There would be obvious advantages in having in being at the earliest possible date a Statutory Railway Authority conforming as closely as possible, both in composition and powers, with the body which will function after the establishment of the Federation, and we see no objection to the necessary steps being taken to this end in India. But even so we are clearly of opinion that the Constitution Act must lay down the governing principles upon which this important piece of administrative machinery should be based, and consequently that the provisions of the first (and any subsequent) Indian enactment on this matter should conform with those principles."

In other words, if it had been regarded as a matter of principle, it would have found a place in the Parliamentary Act. But if it is left to the legislative powers of the Federal Legislature, then it is rather premature to say how a particular power or authority will fit in with the rest of the scheme which would have to be included or embodied in an Act to be brought before the Federal House for the purpose. I therefore, suggest that as the Indian Railways Act has worked without any difficulty for over half a century, no immediate occasion has arisen for its amendment. On the other hand, the manner in which this is sought to be brought before this House clearly shows that it is intended to be disjointed from the whole scheme of the Indian Act to be put and embodied and brough before the Federal Legislature, and its anticipation is not only fraught with suspicion but fraught with great danger. I, therefore, support the motion for circulation.

THE GENERAL BUDGET

2nd March 1938.

Mr. President: I rise to make a statement, in consulta-

tion with the Deputy Leader of the Independent Party and the Leader of the Congress Nationalist Party and the Leader of the Democratic Party, for all practical purposes, the real majority of this House.

An Honourable Member: Elected majority.

Mr. Bhulabhai J. Desai: I am willing to accept the correction as a matter of form though the number of Members for whom I am speaking today is the majority in the House.

As matters stand, this year, looking down the Demands for Grants on which cuts used to be moved and the vote of the House used to be taken, there are absent the Demands for Grants under three heads: the Staff, Household and Allowances of the Governor-General, Foreign and Political Department and the Defence Department. It is the last two with which my present statement is concerned, that is to say, the Foreign and Political Department and the Defence Department. Ever since 1924, the Demand for Grants under General Administration have been divided into several heads. and among them a place has always been found in one name or another for Foreign and Political Department and the Defence Department. The result of that sub-division has been that this House has had an opportunity of expressing its opinion by means of a direct vote on the policy of the Government as regards these two important parts of Government machinery. It is somewhat strange that this year, and notwithstanding the fact that so far as the constitutional provision is concerned it continues to remain the same, that the Government have chosen to take this particular extraordinary course. Looking at the Government of India Act, 1919, section 67-A (3), the provision relating to the powers of the Governor-General in Council are in pari materia the same as those which are contained in the transitory provisions contained in the new

Act in Schedule IX. I will call your attention and the attention of the House to those provisions:

"The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs."

"Then follow the different items to which this provision applies. I call attention to what appears as item (v) under that head.

"(v) expenditure classified by the order of the Governor-General in-Council as—

(*a*) ecclesiastical,

(*b*) political.

(*c*) defence.

If I may call attention to the terms of section 67-A as it appears in the Ninth Schedule, the only changes that I can see, which are verbal, are that instead of item (v) it is item (vi) and the language used is this:

"expenditure classified by the order of the Governor-General in Council as:

(a) ecclesiastical

(b) external affairs

(c) defence, or

(d) relating to tribal areas."

There are four heads instead of the three in the old Act. The only change which, so far as I can see, is not material for the purposes of this statement is that, whereas under the Act of 1919 the sub-head was (v), here the sub-head is (vi), and that the sub-divisions have one added item under the new Act, namely, the one relating to the tribal areas which did not exist in the old Act, but so far

as political and defence are concerned, they are described in the New Act as external affairs, and in respect of defence the language for all practical purposes is the same. It is true that there is constitutional power to do what the Government of India have purported to do, and the question really is not whether they have the power; the question is whether they should have or must exercise the power which undoubtedly has been given to them by the law, the power which was held in abeyance for a long period of time since larger and larger popular representation in this House became the Opposition from time to time. And even as regards the power the position may be looked at in terms of the section both as regards its opening paragraph as well as with reference to sub-head (vi) to which I have referred. There may be a difference of opinion, and I am prepared to concede that there can be, as to whether or not the Governor-General himself could not have intervened in this matter by lifting what may appear to be a ban on the casting of a straight vote on defence and external affairs. The language. Sir, is this:

> " The proposals of the Governor-General-in-Council for the appropriation of revenues relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber unless the Governor General otherwise directs."

Value of a direct Vote on Irresponsible Executive

It is true that it is possibe to hold that the words "unless the Governor-General otherwise directs" merely qualify the right to discuss, but in the way in which the section has been framed the better opinion appears to be or what would appear to be that, "unless the Governor General otherwise directs" qualifies both parts of the opening portion of the section. In other words, it was competent to the Governor-General, had he so chosen to maintain what had grown up to be a salutary, useful and important

convention in this House, that this House shall express its opinion by a direct vote, and not by some indirect method, for the purpose of letting the irresponsible Government know what, at all events is the view of the elected Members of the House, the taxpayers' representatives on their policy under these two heads during the year in question. In any event, whether the Governor-General could or could not intervene, the matter at all events does not admit of any difficulty in so far as sub-clause (vi) of the transitory provisions of section 67A is concerned. They are under sub-clause (vi)—expenditure classified by the order of the Governor-General in Council. Then among the heads mentioned are external affairs and defence. I presume that in order to discontinue the former practice the Governor-General-in-Council must have passed an order whereby they wanted to bar what is more material; and I want to emphasise this before the House that the right of a direct vote, even though it may be superseded by the Government in exercise of their powers, is a right to which the House attaches great value for, an emphatic expression of opinion reiterated from time to time might even,—to use the language of one of the Members of the European Group,—by its acidity, dissolve a certain amount of rust on the minds of even an irresponsible executive. For, indeed that is really the value of all votes so long as you have not a true democratic Constitution. I am aware, as is sometimes said, that in the budgets of democratic responsible Governments not many changes could be introduced by way of amendments because of their commitments, either foreign or internal or for social purposes, but they have the paramount control over the personnel of the executive itself which puts forward these proposals, so that, no vote may be immediately necessary in a matter of this kind in truly responsible Governments; but in the case of irresponsible executives the vote becomes one of paramount value and importance.

I wish to call attention in this connection to the Report of the Joint Parliamentary Committee which reveals to a certain extent the mind behind the step which has been taken and what is in store in the future so far as the new Government which is contemplated by the Act is concerned. I shall read, Sir, only a few lines from the Report of the Joint Parliamentary Committee, page 22. It deals with the Central Legislature and the Army Budget :

> "The one real danger of friction, and that a serious one, lies in the very large proportion of central revenues, which is, and must continue to be, absorbed by the Army budget. It is true that this difficulty is inherent in the facts of the situation."

The Government learn nothing and forget nothing

Sir, it is not my desire to enlarge upon this, but in one word the facts of the situation make it an army of occupation in this country. It exists at the present day; and this is the danger which all my friends opposite have scented in order at least that before any other changes come on, they may not have to be influenced, if they at all care to be influenced, for I know that they have followed the old policy of Bourbons—they learn nothing and they forget nothing. The report continues :

> "Ever since the Act of 1919 the Central Legislature has constantly sought to—*this is in inverted comas, in the report itself,*—magnify its functions in the reserved field of the Army Budget'."

It was realized that this House has continued to discuss the question of the Cut on the Army Budget in all its varied aspects including or rather commencing with that odious word, which becomes necessary in this country,—Indianisation,—and of course the over-burden of taxation by reason of extravagant and excessive expenditure. I continue to call attention to the report which throws more light than the words themselves would indicate, if only you read carefully and with a certain degree of circumspection.

"The serious friction thus caused would be likely to manifest itself in even stronger form in the future in a Central Legislature such as was proposed by the Statutory Commission", *viz.*—

—a Central Legislature consisting entirely of what are now called British Indian Provinces exclusive of the Princes, somewhat similar in colour to this House without the nominated block. Interesting though it is, I will leave out the rest because it is unnecessary for my present purpose:

"Yet, in spite of these weighty considerations the danger of friction between the Governor-General and the legislature over the Army Budget undoubtedly furnishes an additional argument against responsibility at the Centre in a purely British India Federation."

I do not want to read any more. We are in a sense, at least so we are told by constitutional lawyers, functioning as a Federal Legislature in certain aspects. It is obvious, therefore, that until we become trammelled or controlled or guided or stabilised in a way somewhat different to the present nominated block today the British India Legislature is not allowed as they do not wish it, to have a right of direct vote under the head of defence and under the head of external affairs. The reasons are provided more by the Joint Parliamentary Committee than I could have expressed. I have my own view, a little more strict than what there appears, but I suppose it is their desire to accustom the future tamed Legislature to a habit of accepting the fact that as a matter of vote these items will find no place. But whatever may be their motives with which I am not concerned nor this House, the fact remains that nothing had occurred except a vote against them each time to which they might or might not have given even a temporary thought but which is a thing that they do not desire this year.

Refuses to take Part in the discussion.

As the Joint Parliamentary Committee itself states very clearly and definitely, a large part of the central revenue

is absorbed by the Army Budget. It is a sore point with us because we believe that our monies should be better utilised by economies in that particular branch of Governmental activity. And we, therefore, find ourselves in this situation today that contrary to the practice of many years the two heads under the demands for grants do not exist. And taking stock of the situation and the manner in which our vote has hitherto been responded to,—if you call it a response which is always an entire absence of response,—we do not wish to give the Government the pleasure of becoming parties to a form of democratic Government without its reality. We wish to point out that if they go on step by step in the direction in which they are moving, the only remedy is their removal; and, therefore, in consultation with my friends, we have come to this decision that we shall not take part in the general discussion of the Budget, that as and when the demands for grants are moved, without any speech we propose to oppose them; and when they come to the Finance Bill their fate by that time will be properly sealed. So that the protest which is not a mere matter of words but which, I am glad to find, all elected self-respecting Members of this House support, has taken the form which I am placing before you. We wish the House and the world to know the attitude of all of us on the manner in which the practice of their making these demands has been broken in a manner and under circumstances which expose the hollowness of a Constitution intended to make it appear to the outside world that there sits in India a legislature controlling the executive. The sooner it is known that that is a bare hypocritical statement wrapped in a constitutional form and the sooner that knowledge comes home to all of us and to the world at large, the better. I, therefore, submit, Sir, that the conduct of Government has furnished us an opportunity of saving ourselves a considerable amount of time which most of us may easily employ better for purposes and in the services to which we have dedicated ourselves. And I should be very glad if from

tomorrow other business were introduced of a legislative nature where, at all events, we are in a position to give a vote on every item brought before us. Assent may be withheld if we change it too far but that is a final resort. In any case in those measures we have a large voice and we propose to continue to exercise that for the present. But in a matter in which our voice has remained unheard and our vote has been treated with scant courtesy and now that even the right of vote is itself denied, we have taken the decision which we have decided to take.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL

4th March 1938.

Mr. Bhulabhai J. Desai I accept the position that, if it was making confusion of what was clear, the amendment is not needed. But may I call the attention of the Leader of the House to a plain matter of construction ?

"Employed, otherwise than in a clerical capacity or on a railway in connection with the operation or maintenance of mechanically propelled vehicles."

The way in which their Lordships of the Calcutta High Court brought in bus conductors was by saying that a bus conductor is a person employed in connection with the operation of the vehicle, but I do not see anything in that very lucid judgment when they say that notwithstanding the fact that he was employed in connection with the operation it was otherwise than in a clerical capacity. I beg leave to doubt the whole of the reasoning of the Judges with very great deference to them. The way in which they come to the conclusion is very extraordinary. May be, they saw that it was a case in which they ought to come to the other decision which they did. But I entirely decline to accept with great deference their reasoning. I will assume for the

purpose of argument that a conductor is employed in connection with the operation. But the question is not that. The question is whether he falls within the exceptions; that is to say, whether he is or is not employed in a clerical capacity, and to me, at all events, speaking with very great deference, it is very doubtful whether the judgment is right. That is to say, whether the conductor or a person who issues tickets or issues instructions is a person who does not fall within the exception. The question is not whether he falls within the rule; that is not the dispute. If the man falls within the rule, my sympathies are entirely with the other side, but it is because of the exception that the difficulty arises, and if the exception is too wide, that is to say, a clerical capacity, must you not limit the width of that exception so as to include possibly those, though serving in a clerical capacity, but working on the vehicle itself?

The question is this. His occupation will have to be described. If he is not a mechanic, what is he? I am only trying to plead with my Honourable friend in a spirit of understanding; for what is meant to be done is not confusion, but what is meant to be done is clarification, which must be the object of every Statute. Let us not quarrel about that point. Assume for the purpose of argument, as the single sailing boat Member has stated it did, the bus conductor is included. I beg leave to doubt whether he is included for the simple reason that a person employed in connection with the operation is either a mechanic or other than a mechanic which normally is described as clerical. I cannot see any other distinction. If the distinction is that a clerk should be distinguished from a mechanic, by all means do so. Therefore, if you do employ a clerk, that is to say, other than a mechanic, on a vehicle during the course of its operation or movement, then by all means give him protection. I am not alone in that belief.

The Government of Bombay in their opinion which they have sent on this Bill feel that it is very doubtful whether conductors and such persons, not being persons employed

in connection with the operation or maintenance of mechanically propelled vehicles, are included. It is a pure matter of construction, and trying to understand the very illuminating judgment that was read, with very great deference it beats me. What is this emphasis on the words "in connection with" beats me, because I am quite willing to admit that a man is employed in connection with the operation because he is issuing tickets one of the consequences of which...

The Honourable Sir Nripendra Sircar: May I make a statement which may shorten matters? We have expressed our opinion and my Honourable friend has expressed his opinion. We are agreed that there is no difference in principle between us and the object we have in view is the same on both sides. Will my Honourable friend be satisfied with an assurance that, if there is any ruling of any High Court that a man like a bus conductor or working in a similar capacity is held to be a clerk, then we shall at once introduce legislation to correct it? I am prepared to do that, but at the present moment, honestly differing from my Honourahle friend, I have my doubts whether it is so.

Mr. Bhulabhai J. Desai: The whole point is this. I would have gladly accepted that assurance. But need we really wait for the amendment of the section? If there is a reasonable doubt,—might I say that it is not a doubt merely for the purpose of argument? If it were so, I would not have intervened in this debate. It struck me after closely studying this that even if a bus conductor may be said to be a person employed in connection with the operation, the question is that "otherwise than in a clerical capacity" does not hit him. That is why I say I cannot understand the reasoning of that judgment at all. The whole point is this. All persons connected with the operation, less persons employed in a clerical capacity—even if they are employed in connection with the operation, but if they are employed in a clerical capacity, then they do not get the benefit of this

section. Are you, therefore, going to take this risk for nothing? I agree that there is that judgment, but there is the other submission I have made. The words "not involving work in the vehicle while it is in motion" would, at least, include the two instances which have been given, namely, the inspectors and the bus conductors.

Now, take an Inspector. What is his work? Either describe him as a clerk or non-clerk or a mechanic or non-mechanic. What is the particular class to which he belongs is impossible to understand. Therefore, when it is said that every man, notwithstanding the fact that his business may be clerical or described as clerical, while he is working on a vehicle, is included, what is lost by it? There is no confusion that I can see. All you are doing is this. Take the first class, namely, employed in connection with the operations. That is the large class which includes the case of a conductor and an inspector. Exception—clerks—an exception limited by the fact that though he may be a clerk, as he is employed while the vehicle is in motion, he is not within the exception. I do beg of my friends not to treat this with a degree of lightness, because illustrations could be invented. I am not on the point of illustrations. I am on the point on which we are both agreed, namely, that people who are usually connected with this industry and are bound to be there should not be allowed to run any risk, notwithstanding the decision and this is what the Government of Bombay say:

"The Commissioner of Workmen's Compensation, Bombay, has also drawn attention to the amendment made to this clause by the Act; those workers were covered who were employed 'in connection with the service of a tramway', the 1933 amendment in effect requires such workmen to be employed 'in connection with the maintenance of operation' of a tramcar. This working might be interpreted to exclude tram conductors and inspectors from the benefit of the Act. The Governor in Council agrees that it should be made clear that tram conductors and inspectors come within the Act and in addition, bus conductors and bus inspectors, both of whom are as likely to receive

injuries in the course of their employment as a driver of a bus, should be covered by the Act."

What I am pleading for is not for a person like the imaginary person referred to by Mr. Joshi, but a person who is bound to be connected with a tram service or a bus service and who, by a possible construction and not beyond reasonable doubt and not being a mechanic, would be classed as a clerk and, therefore, would not get the benefit. Let us, therefore not rely on the judgment of the Calcutta High Court and, while the Act is before the House, take advantage of it to include the clerks who are employed in connection with the operation while the bus is in motion.

THE LATE Mr. GEORGE JOSEPH

7th March 1938.

I rise, sir, to make a reference to the sad news that we have received of the untimely death of one of our comrades, George Joseph. A career of remarkable richness has been cut off in the prime of life, for he was barely 51 years old. As an academician, he was Master of Arts; by profession he was a Barrister-at-Law. A Congress nationalist, ever since 1917, he had enlisted himself in the ranks of those who have served and sacrificed for this country. He was among the first who joined the Home Rule League and soon thereafter he joined the ranks of those who are now counted by many millions in this country and who have adopted a new method of attaining freedom by their ways of struggle. He became the editor, under the inspiration of Pandit Motilal Nehru, of the *Independent* but soon after this, as a result of his imprisonment, the newspaper had to be closed. After he came out of jail, he, however, was fortunate enough to find another greater work waiting for him,—the editorship of *Young India*, which has now become the inspiration and the guide of the whole of the

country at large, and the awakening result of which India has seen India beyond all recognition. After he gave up that, he continued for a while in the profession, but soon joined the Madras Council and thereafter he was elected a Member of this Assembly,—a man not merely of ability, not merely a man with forensic gifts which he undoubtedly possessed, but one of those steady, steadfast and selfless workers whom it would be difficult for us to replace among our Benches on this side. But we have only this satisfaction that he has left us a rich heritage of selfless, sustained, silent service and sacrifice which must necessarily be the badge of men who do not wait for enjoying the fruits of their struggle but who die in order only that their country may live better and freer. I ask you, Sir, that in the name of this House a message may be conveyed to Mrs. George Joseph and to his children of the loss we have suffered and the sense of appreciation which this House has of the services rendered by him in his too short a career in this House.

MOTOR VEHICLES BILL

24th March 1938.

Mr. Deputy President, I am glad that we are at a stage of the Bill when possibly the apparent conflicts of opinion may be expressed or may be believed to exist, but if they are properly considered they are not conflicting as they might appear; and I say this for this reason that it is not uncommon in this House to be told by one or the other Member of the Treasury Benches, particularly where the discussion has ranged over three or four days and many speakers have taken part, that A cancels B, C cancels D, E cancels F and so on, and he is a happy man. That is the kind of criticism which I have often heard in this House, sitting down with complete self-satisfaction that he has nothing to meet. The only fortunate man in this res-

pect I met was a Judge of the Bombay High Cour
had lost the bulk of his eyesight very early in life,
preserved fortunately for himself, between his two ey
one cone in which he could just look about and s
Thomas Stewart or N. N. Sircar or somebody else
and when he was doing it he was blind to the re
was fortunately a faculty that he possessed because h
concentrate on what he liked and quite easily igno
rest that he did not like. Fortunately for ourselves
fortunately, we cannot have this single track eye or singl
mind. Therefore, it is important and I respectfully
attention of the Honourable the Mover of this mot
the fact that exaggerated though he may find accord
his estimate some of the points of view urged by
on this side of the House, they cannot be merely r
because there is always a substance of truth wrapp
perhaps with a considerable amount of what he ma
sider chaff. This I say advisedly because more ofte
not, the tendency is to sweep the chaff with all the
that it contains and I hope that that would not
manner in which the suggestions which have been
out on the different aspects, the different parts of t
would be regarded. So far as I am concerned, I ne
necessarily agree with everything that is said by eve
on the points of view that I am going to put forw
order that they may be considered by the Members
Select Committee. That is why I say that this st
somewhat more fortunate than when it comes to vo
giving directions for voting on specific clauses o
measure. I am more free, or at least consider mysel
free without intending to criticise anybody adversely
a line of my own in calling the attention of all the
concerned who will sit for the purpose of discussing
Select Committee over this measure. I shall confin
self to the individual concrete points of which I sha
attention.

Safety Provisions

I divide this Bill for the purposes of my observation into what I may call safety provisions, economic and political provisions, as though it may not be easy to separate them very clearly. As regards safety provisions which consist of, for example beginning from the commencement of the Bill itself, licensing of the vehicle in order that it may be road-worthy, to merely change the expression from seaworthiness, in order that the vehicle may be road-worthy, and in order that the man who drives it may at least have sufficient qualification and sobriety to be entrusted with the lives of those who travel in the vehicle, so far, therefore, as the safety provisions are concerned, in these two and the third aspect also which is dealt with in the Bill, namely, what are called the road-signs provisions and also obedience by those who drive the car, to the directions of those who are in control of the traffic, because, more often than not, after the hilarious night, either on the 31st December and some others I could name, whenever I go towards the Fort from my house I see either a lamp post broken or a tree uprooted..............

Mr. F. E. James: That is St. Andrews night.

Mr. Bhulabhai J. Desai: Therefore, in so far as the Bill deals with the licensing of the machine or the licensing of the driver or the duty of the driver to obey the directions with reference to the traffic,—on those points I think the House would be unanimously of the view that having regard to the nature of the vehicle itself, regulation by law is essential and necessary. The more we progress in material sciences which serve to eliminate speed and time, the more regulation for the safety of those who use it as well as for the safety of the public at large is essential. Therefore, one need not take the Bill as a whole either for the purpose of condemning it or accepting it. You must look

into the provisions of the Bill to see the aim and the purpose and once you are able to see that, you might easily be able to draw a line between what you object to and what you do not. I shall, therefore, not detain the House at all on these parts of the Bill except to point out this that even in the licensing of vehicles, particularly the vehicles that would be used for public transport either of passengers or of goods, it is easy to have provisions so stringent that you may unnecessarily and wrongly discourage this legitimate means or method of transport. That caution is I think not only necessary but it is to my mind paramount, for under the cover of safety you might easily destroy the utility of the thing itself by so restricting it as that the burden cannot be borne. Equally these observations apply to the licensing of drivers. While, on the one hand, certain minimum qualifications either of skill, of mechanical knowledge, or of sobriety is needed in order that you may be allowed to handle dangerous things, among others a motor car, you may not so lay down provisions that you may make it expensive and thereby again render difficult the means of transport—and in this case I am particularly referring to what I may call the public conveyance dealing with transport either of goods or of passengers. In the course of what I intend to put forward before the House I will call them public conveyance notwithstanding the highly useful technical words which have been used in the drafting of this Bill and for the purpose of construction I consider they are quite useful. From that point of view, therefore my submission to the members of the Select Committee is this. That while they may regard safety first, I hope they would not be merely obsessed with the idea of safety and try so to find qualifications either of the machine or of the man or to unnecessarily hamper the public means of transport. About private means of transport I won't say very much, for more often than not, in hiring a driver or driving himself the transport, I will lay particular emphasis and say that, without trenching on safety, please do not

overdo the idea of safety so as to destroy the very thing itself or so hamper it as to amount to that.

Co-ordination of transport

But when you come to Chapter IV, I begin to find myself in a some-what more difficult position than the position which was easy and at the same time possible to define with a certain degree of confidence. I would not have much difficulty, sitting on the Committee or with my friends, in coming to a conclusion as fair *via media* when dealing with the question of safety in regard both to the machine and the man. I am deliberately omitting in this context what is put towards the end of the Bill, namely, the insurance part of this particular Bill which is before the House. When I talk of safety I am only confining myself, as I said, to the man and the machine and the obedience to the rules of traffic for serving that end. But when I come to Chapter IV I find myself in a position of serious difficulty on which I think it is useful to pay more attention than either the extreme criticism from one or the other points of view which have been levelled. It is important to remember that it might really happen that a single authority either as the result of a State management or as the result of private ownership would necessarily be the owner at the same time of the two different means of transport, that is to say, the motor transport and the rail transport and that inherent difficulty will always remain so long as there are two different entities of owners of the two means of transport. The problem becomes still more difficult in India because (in a sense it is more important) the owners of one means of transport, at all events, those who have the obligation to pay for it and pay interest on it, happen to be the Indian taxpayers. Supposing there are not two different entities who are the owners of railways and the owners of the other means of transport, the State or a legislature, I think, it is in an easier position to decide the issue and make provision

about their co-ordination than when the taxpayer is the owner of one means of transport and there is another entity who is the owner of a competing means of transport and that presents a somewhat difficult problem because it is easy for some of my friends to say "Nationalise everything" and that is a solution. It may be that when they actually get within their own means the power of running the Government in this country according to their lights and in the best interests of the country that may be an easy solution and it is with that preface that I call the attention of the House to the consideration of the problem which is attempted to be dealt with in Chapter IV. I will confess without any intention of conveying thereby any blame, that I am by no means satisfied at all with the provisions there made and the attempt at solving the problem. I wish to call attention here to a book, of the contents of which I am sure the Honourable Sir Thomas Stewart and his colleagues have knowledge or at all events might be fully conversant with it. It is called 'Railways and Roads in Pioneer Development Overseas.' It is a book written by Edwin Holmstrom. He has attempted to lay down by concrete instances an examination as to the data for the purpose of co-ordinating rail and road transport, of course with the added problem which we have here, namely that the owner of one means of transport is the taxpayer. This is what he says:

"Clearly these things are not susceptible to measurement but they are real enough and if the decision between railway and road development is to be decided by reference *(That is the test which I propose to apply)* to the ultimate benefit of the whole country, they must be taken into account. That can be done only by personal judgment; it is a problem not for the economist, still less for the engineer, but for the statesman. All we can do here is to enumerate some of the many considerations proper to be taken into account.

Don't exaggerate the importance of Motor transport

Among the points of view to be considered is one

which I think has not hitherto received attention. It is item No. (iv) on page 274 of this Book. It is this.

"The necessity of using material which cannot be produced within the country will usually be regarded as a disadvantage, from the national point of view, to be weighed against the form of transport that requires it."

I have attempted to get information for the purposes of this Bill and I find that on the 1st January, 1937, among the motor vehicles in operation there are 23 thousand buses and 20 thousand lorries. There was a lakh and 54 thousand vehicles in operation at that particular point of time. I have also got figures dealing with the price that is to be paid in addition to the capital value of these vehicles and the motor spirit which can be easily measured in a rough and ready way by reference to the ten anna duty which is levied upon it. The estimated duty in the Budget for 1938-39 is 685 lakhs. The duty in the year 1937-38 is 635 lakhs. That is merely motor spirit and I have added roughly, after my own calculation as far as I can judge about it, 25 per cent. more with reference to lubricants and other oils and a larger percentage may easily be added with reference to what you may call the more consumable parts of a motor machine. They are the tubes and tyres. There are other consumable parts too. That is the way I calculate and taking roughly, therefore, I take it that about 18 crores are spent on what you may call recurring expenditure on motor vehicles in India. I make it in this way, and I will show you exactly my calculations. I know that in some parts motor spirit is certainly much more costly than in the ports but that is due to the internal transport system. When you come to a place like Bombay, even taking the ten annas, the price, irrespective of the duty upon it is roughly ten and ten, making it Rs. 1-4-0, because that is roughly speaking nearer the price that is charged in areas in the port towns. Therefore, taking the 635 lakhs, which is, say, 6½ crores, I make that into 13

crores and I add 25 crores more. I have thus estimated 17 crores. That is the recurring cost on all the motor vehicles. I am not making the mistake in suggesting that that is the cost of what I may call the lorries and the buses, and so again I have to make necessarily a very very rough estimate in the absence of any data, and knowing the way in which these are driven, the amount of weight and load that they have to carry, and the amount of power which is usually in them or has to be in them, I would not be far out if I suggested that about ten crores out of the 17 crores really belonged to the lorries and buses. Therefore, the entire capital cost of that much vaunted industry has to be paid, every pie of it, to the foreigner, and all the running costs, every pie of it, have also to be paid to the foreigner. On the other hand, the only persons who are the problems to be regarded—taking the 41,000 lorries and buses—are purely the driver and the owner, and I think we are exaggerating the problem when we are talking of the road transport industry as it is called. In my view it is an exaggeration and it is a wrong perspective which is applied to it. I am not, therefore, suggesting to the House that even if we have got to buy our materials elsewhere in the world that therefore this means of transport is not to be used. But I would certainly, considering it from the point of view of the country as a whole, be very careful before I exaggerate its importance to the extent to which it is done, lest I am killing something of such gravity and such imporance and such incalculable, exclusive good to my country that I must go very slow. It is a problem which you have got to consider. I am not surprised if some of my friends look at it from the point of view only or mainly of those who sell oil and those who sell cars and use this very legitimate very useful means of transport and say, "the fixing of rates is wrong, regulation is quite wrong and still worse", because they have an eye to their annual total sales and therefore they say "we must go a little slow in this matter until we begin to manufacture this means of

transport ourselves ". Therefore let us not merely be led away by the forty-one thousand owners and the possibility of their being out of employment.

Don't Kill the Railway before you produce Motor Cars

But the problem as regards those forty-one thousand is also complicated by the fact that we have been told by at least two reliable authorities, and I have some knowledge though I do not pretend to have acquired much data and I do feel that there is not merely uneconomic competition that is nothing that may happen by more people running into a trap than is desirable or possible in the first instance, but as the result of ignorance people are led to believe that this is an easy means of making a lot of money, only finding themselves after a time in a position in which, who pays? I will illustrate that to you by a single example with which I am personally acquainted. There was a company which had three hundred motor cars which they could not sell, at least at profitable rates. So another company was formed for the purpose of taking it over. A third company was formed for the purpose of letting them out on hire-purchase system, and the company which acquired them, for the purpose of letting them out on a hire-purchase system, having let them out on hire to a fraternity which was much discussed here, in a well-known town of India, there was a fidelity insurance of many lakhs. The cars, of course, did not pay, it was never believed they were going to pay, and they came back on the hands of the supposed owner company. The fidelity insurance people had to foot the bill of the hire and it could not and would not pay the amount of money for which the amount of fidelity was insured against—some twenty odd lakhs of rupees so that I illustrate this only for the purpose of pointing out that we become easily enthusiastic by having the vision of the learned judge whose illustration I gave. You sometimes merely look to the fact that you pay four annas on a route—cheap enough

—and why not? Sometimes you simply notice a neighbour of yours own a motor lorry—and why not? You sympathise with him. But I think a problem like this cannot be considered in the way in which it has been approached. Remember this and I ask you to go very cautiously in killing this very great industry of yours,—at least you should not kill it unless you have produced a motor vehicle in your own country so that what you may lose under one head may at all events be made up by the industry. That is the first part of the factors that will go at all events to enable me to judge which of these provisions are to be assented to and which not.

Arrogant Railway Administration

Now I come to the next problem. I quite agree that if this Bill were merely designed in the interest of creating a monopoly for the railways, I should certainly entirely support Chapter IV because what is called the biggest investment of India is to be efficiently managed so as to make it pay its own way at a small profit for the State also. Now, if they would be State-owned in a very short time, though there is now a somewhat wasteful and arrogant administration of that particular asset of ours, there would be some profit from this industry for the State. I think, however, it is very much better that they should be compelled to so economise, to so efficiently manage the concern, to treat passengers as customers to whom to sell their goods and not as cattle whom they wish to yoke, that the railways may be run on sound lines. That should be the attitude which I think the Railway Administration in this country should acquire. To create a monopoly and make it still worse and run it by means of extravagant and arrogant management is a thing I should not assist in at all, even though I may be told that the loss on that the tax-payer has got to pay, because the remedy for it is not to create a monopoly for them but to replace it

by a better administration. That is the proper remedy and it is no remedy merely saying, "we will make men pay more by having no other alternative means of transport."

It is not as if these forty-thousand odd lorries and buses put together are really such an alternative means of transport as is sometimes imagined. I do not deny that in the places in which they do run they are a good alternative means of transport and are really a useful and healthy check on the methods of the other means of transport and their administration.

Develop Feeder Roads

In fact, we have not reached a stage where it is a really alternative means of transport. That it is a competitive means of transport in areas in which they operate, I quite agree. I am, therefore, humbly of the view that the larger traffic should be reserved for the railways and any man who hopes to carry passengers from Abbotabad to Calcutta is, I think, living in a fool's paradise. It is not going to be remunerative and it is going to be an idle sport out of which he will get nothing.

I respectfully agree that it would be very much better if the Government did it and I will tell you soon why, according to my humble judgment, they will not do it, that, in spite of the beautiful trunk roads, the approach roads to villages have not developed by now. They are not developed because nobody bothers about the villager. The road as well as the rail, beyond being the carrier of passengers and goods, is also a means of transport for the army and there is no pretence about it. When you approach the Frontier nearer and nearer you have a visible and practical demonstration of what I am now stating to you. Therefore, the road development has taken the line which it ought not to have. If the roads had been developed on what is

now said, it would have been better to have feeder roads well developed because in that case you would make the village more accessible from your main lines of transport, which may be the railway. In that case, you serve both the villager and prevent the competition, but in most cases I am painfully aware that the road development has merely gone along the line of more or less that which serves or comes under the eye of what you may call the district officials. That, at all events, is my experience after travelling many many thousand miles on the roads in buses or in small ramshackle cars. Therefore, the position to which you are reduced is this, that if we are merely going to cut out transport in order that the railway administration may either show more efficiency, that is to say, having cut out a competitor, you will show better results. I am entirely against it. But if it is for the purpose of guaranteeing the two means of transport for the benefit of the community, I am for it. And it is because of this that you find it difficult to understand the Regional Transport Authority and its composition. I wish to call attention in particular to the proviso to clause 41 to which my Honourable friend, Mr. Aney, also drew attention in a different context though he made more or less the same point that I am making. Clause 41, which deals with the Transport Authorities, has this important proviso:

> "Provided that, where such representatives are included, equal representation shall be accorded to the business of motor transport, railway transport and, where necessary, inland water transport."

Domination and not co-ordination

With great submission, I do not call this co-ordination. I call this domination. In other words, the inland water transport man is going to dictate to the Road Transport Authority as to how they are going to regulate it in their interest whereas so far as the railway transport is concerned, the other two means of transport have nothing whatsoever

to do with it. On the other hand, we are going the other way about. I am not going to deal with it except to say in passing, though to state it in passing is to state what I may call one of the most predominant factors in the decision. There is the Federal Railway Authority which will sit and regulate the railway transport. I am not talking of its relation to this House. That is an entirely different matter. But it is this which makes me suspicious of the whole of this Chapter IV, that it is going to be manipulated in the interests of the other means of transport. Otherwise, I cannot see what place they have on this unless they were conceding a corresponding place to the representative of the other means of transport on the road. I, therefore, feel that Chapter IV is not so innocent as it looks. The Regional Authority sounds rather a pompous sort of expression and it is going to be composed of men from the Local Governments. Many of my friends, who are enamoured of Provincial Autonomy, may think that their Government will be represented on this Regional Authority but you must remember what little power your Government has because of this proviso in framing the Regional Authority as it is called.

No monopoly for Railways

Sir, I do not wish to detain the House by an exhaustive examination of the Bill. I shall deal with only one or two clauses more which I consider to be important. The House must remember that in a legislation of this type a great deal of patience is necessary and it requires a little careful examination in order to find out in some corner concealed something which is really important. My friend saw many transport signs and got enamoured of them and others got enamoured of something else and so on and I am not surprised at it because that is how a clever stage-manager manages the thing. I think it is perfectly legitimate in certain circumstances. But when it comes to a matter of this kind, then I say that that proviso should go entirely

out of this Bill if it is going to remain on the Statute-book at all, because if that proviso or anything like it is going to remain in this Bill, it cannot be called a co-ordinating Bill but it will be what I may call a purely dominating Bill. Why should the railway representative come and tell me, the Local Government which formed the Regional Authority, as to how he is going to regulate the transport by means of motors ? I cannot see it myself. He may do it in his own interest ; he may think that it is useless to allow a futile or even a mischievous competition ; but that is a matter for him to consider. It is not a matter for the man representing the alternative means of transport to consider. I certainly make bold to say this that when the House has seen the importance of this, whatever may happen to this Bill, I hope it will not pass this proviso for, it is one of the most dangerous things that I see in this Bill. I will come to the next which is not so dangerous and which may be a matter of adjustment, for what I feel is this. The Honourable the Mover of this Bill told us definitely and he did not conceal it and I think it was extremely good of him to have done it that that is going to be the composition of the Regional Authority, He called our direct attention to this matter. It is not because he called our attention to it that I am also referring to it. If the road transport is to be controlled I have no objection to its control, because I am one of those who honestly believe that this particular means of transport even as between one bus-owner and another bus-owner requires regulation. It is being run now on uneconomic, dangerous and losing lines. From that point of view, I have no objection to the Local Government forming the Regional Transport Authority. If there was one single Transport Authority which was managing the railways, which was controlling the road transport and the inland water transport and the manner in which the three are to be co-ordinated, I can understand that, because then he would be in a position to take into consideration the relative value of all and come to a con-

clusion in the interest and for the general benefit of the community. But this is somewhat of a tall order. "You fellows are running buses, I have been running a railway there. What right have you to run that except under my direction." That rather gives me a suspicion that it is intended more in the interest of railways than what it would be otherwise even merely regulating the particular means of transport. I submit, Sir, that if the other two interests have anything to say, they are always entitled to come to an agreement with the Regional Authority. They may make representations to the Regional Transport Authority, but to form part of that authority and sit over it is not a matter to which we can easily lend ourselves or give our consent. Therefore, it is that I say that though in a larger sense it is true, as it must be true in most laws, that the Bill is non-contentious in principle and so it is, so it is in respect of every law that regulates things that are necessary to be regulated, but you have eliminated the safety part of it and when you come to what is called the co-ordination part of it, there it ceases to be purely non-controversial and it ceases also to be what my honourable friend described as a Bill on the same lines as the Insurance or the Companies Amendment Bill. I regret I cannot agree with him there, in so far as Chapter IV is concerned. Nor can I agree with him on the ground that this matter is being left to the Provincial Governments, because it is easy for you to leave it having already decided what you are going to do. If that is the way in which he leaves it, well, we might have had a bolder provision that the Regional Authorities would not be formed by the Central Government. That is a different matter altogether. I, therefore, feel that while I recognise the necessity of so regulating the motor vehicle transport that the railways will not unduly suffer, there are two propositions which I cannot agree with, firstly, that the railway should be propped up by monopolies or that its administration should not be improved and the appearance of improvement should arise by the creation of monopoly.

That is a proposition to which I will not agree. However plausible it may appear that if the railways lose, you will have to pay, I will say that I wlll see that the railways do not lose and I will not pay. I will not accept the false hypothesis behind it that the railways must lose and we must therefore pay. It is these two propositions which are plausible and taken for granted. Really what is concentrated by the banker's mind is the loss. Yes, if the railways lose, I will have to pay and therefore let me prop it up. But he does not take enough trouble and analyse it sufficiently. If he analyses it properly, he must see the defect in the railway and try to remove the defect in the railway either in the administration or in the finances and not by merely enabling it to go its own way, as it does at present and assist it only by preventing competition. Therefore, I consider this part as a matter of grave economic import and, also to a certain extent for the reasons that I have given economic not merely from the internal point of view but also from the external point of view. I have pointed out that this means of transport costs us something like 18 crores a year of which not a pie returns except the transport service, of course, which is rendered and exhausted. Take the average figures given in Sir M. Visveswarayya's book; some 55 crores of capital value has been already paid, and taking the average life as seven years it will have to be repaid over seven years. Therefore, as regards the problem of co-ordination, I am not one of those who say that it should not be controlled. I think it requires to be controlled both from the point of view of the public and from the point of view even of those who rush headlong into this in ignorance and without proper economic ideas of the matter. While that is to be controlled, I hope we will not lend ourselves under that plausible form of control to allow ourselves to be entirely controlled for a different purpose or at all events with a different result. I am not here to suggest that the Honourable Sir Thomas Stewart or anybody has done it with an object, that is to say he was concealing behind this

Bill a nefarious purpose. That is not my suggestion. Far be it from me to suggest that. But I do say that whatever may be the motives with which this provision is made, the fact remains that the consequences of that provision would be that you would prevent the growth of efficient and skilful management, courtesy, custom, inducing methods of dealing with the means of transport which was meant to pay. That, I say, Sir, should not be allowed. Therefore, I take grave exception to the provisions of clause 41.

An unfair clause

Then, I come to clause 44 (2). I am not dwelling at present on any question of construction of the language, how it is expressed and what its scope is, it is a matter which will come at a later stage, it is the principle of it which has got to be considered and its consequences also have got to be considered. Clause 44 (2) says:

"If it appears to the Regional Transport Authority,"

—Remember, Sir, that the Regional Transport Authority has equal representation of railway on it; see what is intended. If it was the intention to prevent cut-throat competition, so that this uneconomic ignorant business of going into some other industry may be saved, I have no quarrel with that. I can agree that sometime or other people go free for the Haj with a porridge added to it. That is not the matter, that cannot last long. I understand now that people go to the Haj and come back on almost next to nothing by way of fare for the transport. This information was elicited during the course of many questions in this House. Therefore, that kind of competition, that kind of mutually destructive rate war may have to be prevented. But that is *inter se*, that is to say, between the owner of one transport and the owner of a similar type of transport. That is a different proposition. It may be said and it can

be said that this covers it, as much him as it covers more. It covers more than what may be claimed for it. Now, Sir, I will read the clause:

"If it appears to the Regional Transport Authority that it is necessary or desirable,"—

Then mark the words,—

"in the public interest,"

That is very much like the language of the Criminal Law Amendment Act, because it is so wide that there is no means of questioning all relevant factors considered as necessary, a thing with which we have become quite familiar and therefore, generally I never ask questions which will only elicit that. The clause continues:

"That the Regional Transport Authority should fix the maximum or minimum fares for any service which the applicant proposes to provide under the permit. The Regional Transport Authority may, after due enquiry, fix such fares and make it a condition of the permit that fares shall be charged accordingly:

Provided that in no case shall the maximum or minimum fares be so fixed as to be unreasonable or so as, having regard to the cost of operation and the facilities provided, to give one permit holder or form of transport any undue preference over another permit holder or another form of transport."

Sir, I have read the whole clause deliberately because something may be made of that proviso. I do not think that it is a sufficient safeguard against the obvious danger which that clause involves. As I said, if the clause was only intended for the purpose of preventing rate-cutting at the Delhi station between two men who are ruining themselves in order to carry passengers that day so that my honourable friend, Mr. Badri Dutt Pande, may have a good ride and a very cheap one,—that, I say, has to be discouraged even at the cost of Mr. Badri Dutt Pande. But what I do not want and what does appear in the Bill is a manipula-

tion of that provision for the benefit of another transport authority, namely, the railways. The result is that the railways need do nothing. They need not reduce the rates but put up the minimum rates of the other man. That is not the process to which I look for the purpose of a genuine economic solution of co-ordinating the two means of transport. There are other provisions in Chapter IV on which I would have detained the House, but I do not feel that it would be proper having regard to the stage at which we now are. But even at the risk of repetition I wish to point out that those who sit on these Committees, while they may waste an undue amount of time easily on sign-posts and licenses and certificates, etc., will please bear in mind that very often a good deal of energy is wasted on trivial sections of the Bill, and the result sometimes is that in a moment of exhaustion real points in the Bill remain where they are. It is for that reason that I call attention to these two sections which, to me at all events, are the very crux of the matter in this co-ordination. It is not co-ordination, I again repeat; it is domination. And if this is the way in which this Bill is going to be through, I have no objection to the rest of the Bill going through. But by all means let all safety be granted by every provision in the earlier part of the Bill; but when you come to co-ordination of transport, be very careful, be very cautious. And I tell my own friends on this side of the House,—do not call this a great transport industry; remember that all the capital and all the recurring charges for it go to the foreigner. Therefore, you must be very careful before you land yourself into an imaginary problem that does not exist, of a resulting great unemployment.

Then, Sir, I have little or nothing to say upon Chapter V. My only single observation on that Chapter is that it ought not to contain provisions of such a nature as to unduly hamper, as I said, the growth of this transport, because you may easily lay down conditions beyond the

means of those who are likely to engage themselves in this type of work of employment and thereby you may lay a very undue burden rendering also this means of transport less useful than it otherwise might have been.

Have a sense of proportion

Then I come to Chapter VIII which relates to insurance. I have read with very great care this report and when I read the words-"99" and "every ten thousand", I must confess that not having the word "ten thousand" followed by the word "vehicle", I was wondering what was the proportion between them; because, you may easily again misunderstand the perspective of the matter. If you look at page 14 of the report you find a map on the other side (page 15) which is staggering. It might appear to show as if nothing has happened in this India and the only cause of death is the motor vehicle. And, of course, I understand that this is what an expert and a specialist generally produces. He wants to catch your eye and very strongly arrest your attention. He says that in India casualty by death is 93 for ten thousand vehicles as against seven in New Zealand and 59 in Italy and 50 in Switzerland. In other words, twice the number have met with death as a result of motor accidents. But the number of people who have died during the whole year in this country is 1,334. Therefore, very often this percentage reminds me of the answer we frequently get from the other side. The officers in the army are six thousand. "Has there been any progress in Indianisation?",—is the question asked; it s a question which I do not generally ask because it is ffensive to ask it, offensive to myself. They say, "Oh, es, 100 per cent. increase", meaning from 50 to 100. f course it is 100 per cent increase, and, therefore, it is rrect as to percentage, but it is entirely wrong as to rspective. Therefore, while on the one hand I am humanitarian ough to believe that there is no reason why a single one out

of the 1,300 should be allowed to die or at all events without some sort of compensation to those whom he leaves behind, I am not very much frightened into this insurance idea by this very bulky and useful report. I am not a bit frightened by that at all. After all whether the 1,300 and odd people will be compensated or not, it is a great tragedy with regard to every single individual concerned or those whom he leaves behind. But you may easily walk into the parlour which may be a trap. Sir, at the time the Insurance Bill came up this question of general insurance was discussed. I do not wish to go into the questions which were then discussed but it was, I think, fairly admitted that India has made little or no progress in the matter of general insurance which includes this accident insurance. And I should rather go slow both from the point of view of the burden which is likely to be imposed on the owner and from the point of view of the considerable amount of premia that will be paid for the purpose. And for the moment at all events I may say this that I am not so much frightened by this report as one is likely to be frightened if he did not see it in its proper perspective. As this report is confined to British India, out of a population of 350 million, 1,000 people have died. Not that I do not want to prevent a single one of them dying. But how much I shall pay in order that those whom he leaves behind may be compensated as compared with what all the bus-owners will have to pay is the problem to me. And it is a problem which I am not going to answer so glibly as to say, "Oh, yes!, what a horrid thing! You must insure, the rule of the road", and all the rest of it. Sir, I have a sense of proportion. My country is a poor one. There are many means of draining it and my friends may or may not see its implication in all its aspects. I am not blaming them because it may not be possible to see all the aspects of the issue. But to me these compulsory insurance provisions are not of such a nature as to be enforced within a period of five years, which is intended.

These, Sir, are the main provisions of the Bill to which I have called attention. But I stress again that even more important than this insurance provision is the provision in Chapter IV, and on that we should be very much awake and very wary, and not say that it is a very nice Bill. It may be a very nice Bill, but you can have a very good sugar-coated small arsenic pill also. Do not run away with the idea that there are 10 grains of sugar and 100 per cent. grains of arsenic. Take care of the arsenic, you can do without the sugar all right. Therefore, what I like you to be very careful about is to see that while every impetus is given to the railways and those in charge of the railways it is an industry in and by itself for which we are paying, let us not prop it up by means and methods so as to handicap another transport industry, reasonably maintained, reasonably controlled, and of which I am not particularly enthusiastic until I manufacture the means of that transport.

Sir, these are the main points which will be borne in mind when the clauses of the Bill are discussed before the Select Committee.

INDIAN INCOME-TAX BILL

12th April 1938.

Mr. Deputy President, I feel certain that the debate has been exhaustive, though if the Honourable Member in charge were to use the word, he might call it "exhausting"; but the fact still remains that notwithstanding the way in which you may approach the different points of view which have been put forward, they cannot be merely rejected on the ground of the use of a flippant word. For, naturally in a Bill of this kind there are individual measures and provisions which attract the attention of those Members who have had experience in their own

province or in their own profession of those different points of view. From that point of view, I think, a little more attention and a little more consideration would be useful even in the case of those who might not have been able to express their idea quite in that logical and attractive order which may be characteristic of some others.

So far as the justification of this Bill is sought on the ground of the Niemeyer Award, I wish to enter my emphatic protest. I am not one of those who are prepared to come here and be told that certain sources of income, on an examination by an expert, might leave some money for the provinces, therefore, whether it is right or wrong, the premises that inasmuch as a part of the money will go to the provinces, you must vote for my provisions —it is a logic against which I wish to warn the House. It is not unlikely that people might easily forget—that because a province is going to get they might not realise how it is going to be got. The justification of the Bill, therefore, must be sought on the examination of the provisions of the Bill itself. I must at once tell my honourable friends opposite that any prospect of a pressure of public opinion on the provinces is not likely to be successful on the use of the Niemeyer Award as a ground on which this Bill is to be supported whether we accept individual provisions or not. It is in that way, speaking for myself only, at this stage that I propose to approach the questions involved in this Bill. My desire is not to occupy too much time of the House by arguing many of these myself, for my intention and deliberate intention to-day is to state those points which may not immediately appear on the face of the Bill or though they might appeal to different sections of the House, their cumulative effect may not be perceived. Therefore, while opinions are to be solicited, it is much more advantageous to look closely into the Bill to see what is in it irrespective of its propriety, so that those who would be made to pay if it was passed

into law might be able to express their views, both as to its incidence and as to its wider effects. It is in that way that I shall approach this matter, not so much on the question of justifying or even adversely criticising one or other of these provisions. I am also mindful of the fact that it should not be unduly stressed that the provinces can be assisted only by the extractive method which is the purpose of this Bill. There are better ameliorative methods which this House has often pointed out, and which it is unnecessary for the moment to dilate upon. But let it be remembered that if this House lends itself or its vote to get some money which must be legitimately paid by the taxpayer, it will not relax any of its efforts to see that these extractive methods may even have to be abolished in order that the ameliorative methods may be rightly pursued from time to time.

Where was this solicitude so long ?

We cannot be told for the first time today;—I do not know to whom it is a compliment, or whether it is not an indictment of the rule of some 150 years—the argument which I have taken down of the Honourable the Mover of this Bill. His argument struck me as if there was no such thing as a province in existence before the Congress accepted office. Where was this solicitude for the nation-building purposes for which money has to be provided ? What did they govern this country for on their own confession except that they did not bother about, at least up to now, what they now frequently refer to as nation-building purposes ? At least it is something that they have now realised that because other people are governing, other angles and methods of government have come into being. If that were not so, I cannot see how today, as a serious argument, eight speeches were read out before this House for enlightenment,—of eight Provincial Ministers in charge of finance, "Oh ! but

we have nation-building purposes for which we have no money, and please, Sir James Grigg, if you will carry this Bill we will see if something can be done for those poor things which have been starved for 150 years". Is it suggested that the Government of this country was hitherto carried on without any desire and without any purpose and without any objective relating to the subjects which have now become uppermost? Therefore, there are two morals which I draw from the Honourable the Mover's speech. The first moral that I draw from the speech is that for the first time in the history of the Government of this country it is being realised that there is such a thing as nation-building purposes, such as, education, health, relief of poverty, etc., that hitherto the rule was carried on for a different purpose. Thank God, at all events, though the argument may be used for one purpose of trying to catch the vote of the House, I think I can easily read all these things out to an enlightened British audience and tell them what the rulers were doing in the erstwhile period prior to this year. The second moral which I draw is that he proposes to follow what I call the extractive method rather than the ameliorative and commend that to our attention, forsooth, for the benefit of these nation-building purposes. Apart from the purpose for which those two arguments were used, I am glad they were used because we are made alive to the situation and we may not be led into either of those two grounds.

Don't extend the Act

Coming to the provisions of the Bill itself, I wish to point out in the first instance, as Sir James Grigg put it, "I have told you something which is not in the Bill, which was in the report", I have seen the report and I do not wish to go into every one of those provisions, but one must look at this Bill. If it were merely an amending Bill for the purpose of what is called avoiding

tax-dodging devices, I would want to know its true implication, having practised law for many years, and, in particular, in numerous cases under the Income-tax Act. It is a trite thing to say that if you are not within the provisions of the law—I think it is *brutum fulmen* to say that because you have escaped it there was a tax-dodging device. The man has a right to say, "I am not obliged because I am not within the Act". So let us not run away with these phrases which it is not uncommon to use to catch the unwary eye. What is the meaning of a tax-dodging device? That is a thing which requires to be very carefully examined. If the object is that the man who is within the provision should be hit and you have failed to hit him, I am at one with you. But if you mean that the man who was not within it you now wish to shoot,—I should be very careful lest I should fall into the trap of an act called the tax-dodging device. For I think it is a perfectly legitimate thing in any country that so far as any statute is concerned, if you are not within it no amount of empty pretended abuse can make you pay a tax which you are otherwise not ready to pay. In fact, I think it is to the credit of those who have read the Act after it was enacted, that they say where you have failed, and it is no use therefore saying, "I am now going to prevent tax-dodging device". Therefore, let us first understand that people have escaped taxation by reason of the defect of language which it was even the intention of the original Act to hit. To that extent, I am entirely with you; but when you try to get beyond it, I am beginning to look a little more cautiously and there I will follow the provisions of the Bill even more cautiously than what I have indicated today. The next thing is when you talk of tax-dodging devices being purely within the law, people dishonestly escape it because of the weakness of the administrative machinery. On that account my sympathy is entirely with those who wish to reorganize their administration so that people who are within the law and ought to

pay shall not escape dishonestly. Remember there is a very real distinction between the two. If your Act has failed to hit him it is not a dishonest evasion, but if you are within the Act and have fraudulently concealed your income or a part of it, so as to avoid taxation, that again is a different proposition. Therefore, in the very commencement we must distinguish between two parts of the Act. The first is where the Act is defective having failed to bring within it incomes which have been taxed and which it was their desire and intention to tax. Secondly, there, it is a matter of legal amendment, a permissible amendment. Where you come in with the administrative machinery, it is a permissible amendment and as the Honourable the Mover has himself said, it may be carried out largely by executive orders. Under the cover of this tax-dodging device, there is a third thing which can be done and which, I see in the Act to a certain extent, is attempted to be done and it is this, to extend the Act to incomes which were not covered by the original Act. Now, that certainly is not what may be legitimately or properly called an Act for the purpose of avoiding tax-dodging devices.

Get the 'honest' JOHN to pay his share

Then the next thing which I want to look into the Act for is what are the provisions where legally people are allowed not to pay the tax which, except for those specific provisions, they ought and would have paid. I will mention first this particular source of income which has escaped so that the House may again be cautious and not be led away by an idea "Some more money is coming. Take it", forgetting all the time that there are more legitimate and proper sources of taxation which ought to be tapped first to the extent to which it is within the power of this House. The first is a provision of the Government of India Act whereby the persons and payments which are paid in England are exempt from taxation.

Why are they exempt from taxation? I do not understand it at all. My friends must not be too enthusiastic that even for a year's time something more is to be given to provinces—robbing Peter to pay Paul—instead of getting the honest John to pay his share of the tax on the income which accrues here and I do not see why it should not have been made taxable. What effort have the Government of India made hitherto that they can come before this House and say "Oh yes, it is quite necessary to get some more money but you pay". My first question is "You pay what you should have paid but for specific exemptions". In other words, you were within the Act but for section 60 of the Income-tax Act itself—provisions which are so inordinately wide that it is time that they were fully considered in their effect and in their incidence:

> "The Central Government may by notification in the Gazette of India make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income or in regard to the whole or part of any income of any class of persons".

You might as well surrender yourself entirely into the hands of the Central Government. I think this House would require to be very very properly and definitely told as to the limit not merely of what we have now been told about the notifications which are issued but if the section can be tackled by way of amendment in the Bill itself, then it will certainly be my duty to limit its scope as much as one can do so reasonably. For, indeed, all that section comes to is this "Yes, there is the taxing Act but the Government may release anybody from taxes it likes". That is what it means.

The Foreign Income

Then we come along to the provisions of the Bill itself. The Bill in section 4 attempts to tax what was not hitherto liable to tax, the foreign income of an assessee. I

will presently come to the pros and cons of its propriety or its utility but what I find in the provision is that whereas an assessee who is a domiciled Indian comes within it, an assessee who is not a domiciled Indian does not come within it. I fail to understand why. I do not see why a man who is an assessee here, because he is domiciled elsewhere, should escape taxation. If the principle is right that foreign income of an assessee is a proper source of taxation, there is no reason whatever of justice or equity that I can see why a person earning his income here should escape paying his income-tax on foreign income here. I know and I am aware that the basis of taxation in England and here has rightly been different, rightly not on any question of equity or ethics but from the point of view of the tax collector. In England naturally he gets hold of the domiciled Englishman an assessee because most of them earn their income abroad, at least a large portion of it abroad. Therefore, if they merely said "accrues or arises or is received in England", it would not be. Therefore, I can well understand the basis of taxation.—you take the assessee who is the domiciled subject, no matter where he earns. Be it so, but when it comes to India you say "Well, that does not matter. Indians who are trading in Malaya, in Japan, perhaps in East Africa and South Africa, why are they escaping paying tax on all these incomes? Let us make them pay". If you make them pay, then let every non-domiciled person who is an assessee also pay and we shall be very glad of that. I think it would be a very nice good chunk according to the Honourable Mover of this motion—in fact a much larger one than what he would get if he were to throttle every one of his tax-dodging devices. I promise him that if he would tax every assessee in India on the foreign income irrespective of the question of domicile he will get a very substantial income indeed. Therefore it is a provision which we have got to consider. You cannot simply say, "Oh, yes. Let us assess all the foreign income which is now escaping". I will say that opinion will have

to be gathered in this country from those who might have to pay and those who might benefit by the payment if made, so that both might have their say as to what is to be done with reference to foreign income. There is this also as regards the domiciled Indians to be considered. Having regard to present quota of exchanges and restrictions on the ability to tax any profit even if made in any foreign country, one must be very careful before you begin to tax the income merely because it is made at the other end and I dare say the questions both of computing the income and, even though the income is made at the other end, to what extent they are able to get it back into this country even if they wished to do it, are points which seem to have escaped the Mover to a certain extent. It must have—because I tell you he might have an eye on Japan. I am aware he is even, I think, more fully aware that it is not quite so easy, even if you should make a profit, to get it out of that country in order that tax might be paid on it for the purposes of the revenue in this country. I am not, therefore, suggesting that this may not be a very legitimate source of income. But, as I said and I repeat it again, my purpose in this is to point out the points that lie in this Bill so that the case of persons to be hit or likely to be hit and the gain or loss may be considered. Sir, by the month of August we shall be in a position to judge to what extent any of its provisions should be accepted, rejected, or modified.

The Counter-bait

In the same connection, though the section is further away in the Act, I must refer to the double taxation relief. It is a curious commentary, that you omit the non-domiciled assessee here and you also give him double taxation relief. I think generosity could not go very much further, but it is generosity at the expense of a very very poor but highly taxed country that cannot bear to be taxed at all. You may laugh at Mr. Badri Dutt Pande's speech

but the pith of his remarks was, "we cannot afford to be taxed further unless we must be." In other words, you must look for every other source of taxation which is legitimate and considered legitimate in every other civilized country, and take that before you come to our poor men, or even to our supposed rich men, for the purpose of even our nation-building programmes. Therefore, these are the four points which I want everyone to bear in mind very carefully—at all events, those who will give us their opinions on the provisions of the Government of India Act, section 60 of the present Act, the omission of the non-domiciled foreigner-assessee under the present Act, and the double taxation relief,—for you must remember that there is an infinitely larger quantity of money in these four than in all these tax-dodging devices of my Honourable friend. Therefore, while he holds out to me the bait of a possible crore of rupees, of which fifty lakhs will go to the provinces, I may just as well hold out the bait of a multiple of that one crore, if he will only take my advice on this point. Therefore, I want that public opinion should pay very close attention to the four points that I have mentioned. Equally it should pay very close attention to the reasons which are supposed to be given for the purpose of inducing us to support this Bill. If it was merely a question of administrative machinery that is dealt with, if it was a question of supplying a lacuna, that would be a different matter, but if you go beyond that I should be very careful before I accede to any of the proposals. And that brings me to the Definitions—*vide* proposed clause (6*A*):

> "(6A) 'dividend' includes any profit, advantage or gain intended to be paid, credited or distributed to its shareholders by a company notwithstanding that the company concerned may have capitalised the amounts out of which such payment, credit or distribution is made....."

It is unnecessary to read the rest of it.

Law founded on commonsense

Now, I wish to sound a note of warning here too. You can define anything as anything else,—as the Government of India Act has defined an Englishman as an Indian for the purpose of his advantage but not for the purpose of his disadvantage. But you cannot say that a definition merely because you have defined it that it carries with it and within it its own justification. You must remember that the company as an institution for the development of modern industry is indeed one of the biggest ingenious devices which I think the British mind has discovered. But you must also remember that, with the growth of that business in that form, there has also grown up a great deal of law founded on common sense and founded on business requirements; and while it is easy to define A as B, we must note its implication before we can assent to any such definition. I am not one of those—whether it is for the Englishman or for the Indian—I am not one of those who are prepared immediately to abolish all their fundamental notions of company law, the distinction between the capital of a company and its divisible profits, and to entirely give the go-by to that merely in order that I may satisfy my Honourable friend so that he may get a little more money. I will want to understand the matter fully, as the public will want to understand the matter fully. It may be that he can give you some astounding instances—I know of one such case and that is probably what he has in view, one of the Ahmedabad millowners that he is trying to hit and that is one of many numerous cases. I do not mind any individual having to pay tax or not. What I do mind is this,—whether your definition, that is to say, your method of dealing with what are called divisible profits and profits from what is called capital and what may be capitalized as part of the divisible profits but not divided, all that requires much more careful attention than the one or two Honourable supporters of the Honourable the Mover have

given to it. They live within a narrower circle of suction, they believe in nothing else, it is a good suction vacuum pipe that wants to get all it can from all sources,—but that is not the way in which a lawyer or a statesman, standing here from the point of view of considering all its effects on society and on industry, can be prepared to look at it; and I, therefore, want you to be very very careful about that definition in "6A".

I have already called your attention to section 4 to the extent to which it is necessary for the purpose of eliciting opinion. I have every sympathy with the Mover when he comes to the private limited company. On that his provisions may to a large extent find support and without any compunction whatever, because I quite agree that wherever there is a private limited company, which is for the protection of say six individuals, that they may not be liable for debts beyond the capital of the company, therefore, having done it for their own benefit, if they wish to utilise that also for the purpose of further evasion of liabilities, it is a matter on which my friend is entitled to my sympathy; and understanding the growth of company law, I have more sympathy so far as the extension of these provisions is concerned than one might have thought, because there is no logic between the two. A public company stands on a different footing from a private limited company where the undistributed profits have attracted also the scrutinising attention of the Honourable the Mover.

Having dealt with all this, I wish to point out to you something with regard to double taxation relief also. During the years between 1932 and 1936 for which I have got some figures, that relief in the case of companies registered in India has amounted to a sum of Rs. 5,88,57,000.

Then I come next to what is called the slab system, Sir, the way in which these things are put forward is extremely

clever; I wish my friend had been a lawyer instead of being a Finance Member. He says, "two-thirds of your people escape" —as if that was the whole of the Bill!—The whole pretence of the thing is that he is very clever indeed—as if the whole of the Bill was the slab system! If that was so, probably I would agree. I have not the same objection that the man who has the lesser income should escape more lightly than the one who has the larger income, that he should pay more, but by changing a single bobble he must not believe that I am going to accept the other bobble along with it. Of that, we should be very careful. So far as the slab system is concerned, speaking for myself I think he has all my sympathy and support. On that I have not the slightest doubt.

Compulsory return

Then, we get to compulsory return. On that, notwithstanding the reasons given for it, I should certainly be hesitating and cautious. What we have heard from Mr. Som shows that honourable spies exist in the Income-tax Department. I know a great deal about them in the city of Bombay in any case. But whether they exist or they do not, to make a provision of the kind that is intended is a different matter. I have seen the figures of of people who have been got at the second time and the third time because a notice has not been issued to them. What you have got to consider really here is an entirely small matter. My friends cannot help returning the returns. They cannot escape any-body and I will not escape them either. There is no difficulty about it. The man who may escape them is the man who is on the border line between taxation and non-liability to taxation. There are cases of small tradesmen and the like where it depends on how you assess or compute your profits. I think it is rather an uncalled for verdict put upon that large class of people who are just on the border line of being taxed or escaping taxation, whose profits, after all, cannot be

measured in any very scientific way, that they should be compelled to make a return on the penalties that are provided in the Act. Therefore, I hope that we would not be led away by our enthusiasm of collecting money by saying: "Oh, the fellow is liable to pay, why should he not do so?" But let us remember the individual man and the class of men who is going to be hit by these provisions. Therefore, as regards these provisions I think a great deal more attention should be paid than what might appear at first sight. It is like the ticketless traveller. You were told that if only he could be punished and sent to jail, nobody would travel without a ticket. That bait the House did not take. I believe there are many other baits and the House is becoming more and more cautious to understand whether they should take them and swallow them or whether they should throw them back again.

Let Europeans pay their fair share

Then the provisions of the Bill deal with the question of business and in that connection my friends are so varying that I do not wish to say anything. But here I wish to say a few words—and I should conclude within a few minutes—on the observations made by my Honourable friend, Mr. Aikman. I think he got up in the House to point out lest we should make some mistake about our need for foreign capital. He was very anxious to teach us that we are all misleading ourselves and that if we could only give him all forms of exemption from taxation he will be kind enough to invest his money here. So far as I am concerned, I do not want you to be kind at all. I know this that your investment in the country brings in so much more return that it is only that which attracts you here and not this particular method of attraction either of kindness or of relief. Therefore, I am not at all sure even on the larger issue, for which there is not enough time to examine, whether we need

foreign capital or whether we will drive away foreign capital if we begin to tax as other countries are doing or if they were to be taxed if this question of domicile or the question of relief from double taxation were not there. As to how much you should take is another proposition, but I may at once tell the House that none of us, whether we are misleading ourselves or rightly leading ourselves, are afraid that capital which is otherwise coming into this country is going to fly away because of the system of taxation. Of that I am not a bit afraid, and and if that does happen, I think there is every prospect that, though it may appear to be an evil, it will be a great blessing in disguise. All that I mean to say is this that our friends should bear a fair share of what they get out of their investment in this country which, with very great deference to the provisions which I have pointed out, they have hitherto escaped by at least four provisions to which I have already called attention. There may be some others lurking here and there into which I shall look more closely before I go to the Select Committee meetings. But talking of business, I quite agree that in so far as the allowances under the head "business" are concerned, they require close examination from the point of view of industry. I think the Honourable Mr. Buss said that he was quite content that depreciation if it reaches the cost price of the original machinery or the building, whichever it was, should not be further allowed. I do not wish to enter into any dispute with him on that heading, because I quite agree with him that if the percentage of depreciation is such that, within a less number of years than the actual extinction of property or its becoming utterly useless for that purpose, you will pay enough to replace it, I think there is everything to be said for a system of depreciation based on that footing. But knowing as I do, the percentage allowed for depreciation is nothing like what is imagined. I would like to calculate before I take the bait which is given. The proviso will

never come into effect and the amount of depreciation will never be equal to the cost. You may never reach it. Therefore, do not run away with a provision which looks very nice but which will never become effective. I, therefore, desire that close attention should be paid to this. There are many baits thrown out. I admit that it is a very tempting thing. They say: "Look here, you are going to ask for more if you get the whole of the equivalent of your cost." It looks as if it is some favour which is being conferred on you. But you must examine it a little earlier before you get to the last. It is there that I call your attention to the manner in which the industries may be affected by these provisions. In addition to that, there is the whole Chapter which requires looking into.

Then, I wish to refer to Chapter V (b) which is intended to be added and which relates to special provisions relating to avoidance of liability to income-tax and super-tax by transfers of assets abroad. I may only say this that it requires some scrutiny. It looks very attractive in the sense that if a man has, in fact, done that there is no reason why he should pay, but the language of it so far as I understand it is wider than the purpose or its justification can ever enable you or any Legislature to accept it.

Then, there are two small matters with reference to the identity of the wife and husband and certain other incomes or sources of income being transferred. The old Act, it is said, did not work well. I deny that. I think the old Act in so far as it laid down that any transfer which was not *bona fide* should not be regarded for the purpose of income-tax worked well. In fact I know an instance of a multi-millionaire who tried to dodge and failed even though he paid me the fee to get him escaped. I say this only for the purpose of pointing out that it worked well. But to lay down this that you cannot make a *bona fide* trust for the benefit of your infant children or

any other dependants except at the risk of having to pay all your life income-tax, notwithstanding the fact that it is not a part of your income and cannot be so under the law, it is not a proposition to which I can subscribe at all. I, therefore, say this that the reasons that are given for the Bill do not attract us at all and we will have to examine the provisions of the Bill itself. Secondly, as regards the limited purpose, if there is any amendment which prevents a man escaping who ought not to have escaped only in the sense that he was intended to be within the Act, we will agree to that. As regards any tax-dodging devices by way of your machinery, that is your look out and that has nothing to do with the law here. As regards any new sources of taxation, I shall be careful to see that in itself it is just that it is borne by every assessee. I shall also see, as regards any tax on income which ought to have been paid in this country if it has otherwise escaped by reason of any legal provision, that that legal provision is abrogated before you get only to an Indian and that too a poor Indian for the purpose of taxing in order to pay the provinces. Sir, these are some of the provisions which require to be carefully looked into, and I have no doubt that we shall meet in extreme good humour having pondered over the different possible results of the Bill before the House.

ARMY RECRUITMENT BILL

22nd August 1938.

Sir, quite unwittingly perhaps, though I am giving more credit to the Government than they normally deserve by the manner in which they have framed their objects and reasons in this Bill, they have raised issues on which this House is entitled to express its opinion; and they cannot now merely shelter themselves behind no reason given by the Mover of this motion and some supposed reason given by the Honourable the Home Member. It has also raised issues on which, I think, it is fair that this House should

express its opinion by means of its vote on the attitude that the Indian people will take up in the war in which the Empire expects or is afraid to be engaged. For the call as regards this Bill has come from them on the ground that while not wanting to put down pacifism they want to make it penal to dissuade would-be recruits from taking part in any war in which the British Empire may become engaged. And, therefore, I will first shortly state the grounds on which we oppose the consideration of this Bill, and take up each of them to the extent to which they have not been dealt with already.

First and foremost, Sir, we oppose this Bill on the ground of what was scoffed at, the principle of the right of civil liberty which, so far as we are concerned, we hold and the Briton pays lip-worship to, that right of civil liberty for which they say Britain today, as against the rest of the world, has this distinguished feature. In asmuch as my presence in Europe a few weeks ago was mentioned by Maulana Zafar Ali, I should like to state to the House something that occurred which is of greater consequence and is extremely material to the issue now before the House. A section of the press of England presided over by Sir Walter Layton entertained me for the purpose of understanding from me our attitude as regards the Government of India Act, but incidentally, also, our attitude in regard to matters of defence and the army. One thing that the Chairman said was that he expected that even if, as he anticipated it might soon be, India attained independence (in what measure or method or manner is another matter), there is one thing that they expected of India and that was that so far as the maintenance of democracy is concerned they will always place the resources of their great country because Britain was always prepared to fight for democratic principles and for personal civil liberty.

Opportunists

If there were no hypocrisy in this, as I say there was

not, it is somewhat of an irony that their instruments in India should come before this House and ask us to sacrifice what little of personal liberty is left in this country. And, notwithstanding the Khan Bahadur who wanted to shed light, possessing none himself, and said that he did not care for principles,—he only wanted to laugh at them,—and that he was a realist, I call all gentlemen of this type and method of thought not realists but opportunists. And, therefore, so far as we are concerned no gibe either by him, cheap as it was, and no ridicule or amusement attempted by the Honourable Mr. Maxwell will in the least degree deter us from asserting our right first and foremost on the ground of principle.

The Bill aims at what was frankly and rightly admitted by the Honourable the Law Member as creating a crime of an act which has never been regarded as a crime even in India hitherto. Wars have been fought before including the last great war, and the Government of those days was not so unwise nor so tactless as to introduce a measure of this kind for the purpose of getting recruitment in India. It seems to me somewhat unfortunate, as one of the newspapers remarked a short while ago, that some senile military leaders in this country and some senile civilians still exist who believe that by a generous dose of repression they will get loyalty from this land. It is that type of men alone who could have conceived the unwise course of getting the opinion of India before the rest of the world as to the way in which they feel as members of what is called the British Imperial system; but I am glad that they would have a good dose of it by the time this Bill is finished. I am glad only for this reason that but for their tactlessness there were other methods of enlisting the sympathy and assistance of India if ever a war was of such a nature that the Indians had approved of it.

Novel Argument

Therefore, first and foremost we stand on the firm

ground that an act which otherwise had been regarded as innocent and has no parallel as being penal in any other country is being made penal here and we will not assent to that. And what was it that the Honourable the Law Member said? He said: "Oh, yes, it is new but we can always create new offences." I daresay he can. If those behind him ask him to draft a Bill that the existence of every one of us here was penal, I hope he would not get up and say: "We have power to declare anything penal and therefore, we shall use the power for that purpose." It is an extraordinary and novel argument. I expected him to say, "We cannot support it in principle but the circumstances of the emergency as conceived by those for whom I am now rendering a valuable service require me to act as their mouthpiece for this purpose." That is a thing which I can understand and appreciate, but I cannot possibly allow him to lend the weight of his dignity of age and learning to a cause which he cannot possibly believe in. And let us examine what it is that is sought to be made penal, because of all points it is always the point of principle on which we shall stand. A man is free to enlist himself or not; another man is equally free to give him whatever advice he likes. And yet solemnly this Government comes here and wants to make it penal. Shall we make it penal that they should corrupt a man by asking him to fight for another man's liberty?

I think it would have been an infinitely better measure if the Government of India were by a law prevented from recruiting any Indian for the purpose of fighting for a British cause and keeping India subject all the time.

Existing Law

After all, what is it that you want to do? The law of the land—sections 503 and 349 of the Indian Penal Code—lays down clearly that you may not by criminal intimidation prevent a man from doing what he wants to